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TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 904—MILK IN GREATER BOSTON MARKETING AREA

ORDER AMENDING ORDER

§ 904.0 *Findings and determinations.* The findings and determinations herein-after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of the marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only

to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a public hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective February 1, 1958. Any delay beyond that date in the effective date of this order amending the order, as amended, will seriously threaten the orderly marketing of milk in the Greater Boston, Massachusetts, marketing area. The provisions of the said order are well known to handlers—the public hearing having been held on January 21, 1958; and pursuant to notice duly published in the FEDERAL REGISTER on January 17, 1958.

There was no opposition or objection at the public hearing to the proposed amendments to the order, as amended, by any interested party who may be affected thereby. All testimony adduced at the hearing unequivocally favored the adoption of the proposed amendments to the order, as amended, and all interested parties requested immediate action on the issuance of the order amending the order, as amended, to protect the integrity of the pooling system, to effectuate the intent and purpose of the basic law and regulatory order, and to facilitate the orderly handling of milk excess to Class I needs in the New England region.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective February 1, 1958, and that it would be contrary to the public interest and the orderly marketing of milk in said marketing area to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (see section 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding co-operative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order) of more than 50 percent of the milk covered by the order, which is marketed within the Greater Boston, Massachusetts, marketing area, refused or failed to sign the proposed marketing

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CFR SUPPLEMENTS

(As of January 1, 1958)

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agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who during the determined representative period (December 1957) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Greater Boston, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete the language of § 904.2 (d), and substitute the following:

(d). "Dairy farmer for other markets" means any of the types of dairy farmers described in subparagraphs (1), (2), and (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm;

(2) Any dairy farmer with respect to milk which is purchased from him by a dealer who operated both regulated and unregulated plants during the month and which milk is moved to a regulated plant, if that dealer caused milk from the same farm to be moved as nonpool milk to an unregulated plant during the same month; and

(3) Any dairy farmer whose milk is received by a handler at a pool plant during April, May, or June from a farm from which the handler received non-

pool milk during any of the preceding months of July through March, except that the term shall not include any person who was a producer-handler during any of the preceding months of July through March;

(4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by, the handler or dealer.

2. Delete the language of § 904.2 (k) and substitute the following:

"(k) 'Dealer' means any person who operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area."

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 30th day of January 1958, to be effective on and after February 1, 1958.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-835; Filed, Feb. 3, 1958;
8:50 a. m.]

PART 934—MILK IN MERRIMACK VALLEY, MASS, MARKETING AREA

ORDER AMENDING ORDER

§ 934.0 *Findings and determinations.* The findings and determinations herein after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Merrimack Valley, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will

reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective February 1, 1958. Any delay beyond that date in the effective date of this order amending the order, as amended, will seriously threaten the orderly marketing of milk in the Merrimack Valley, Massachusetts, marketing area. The provisions of the said order are well known to handlers—the public hearing having been held on January 21, 1958; and pursuant to notice duly published in the FEDERAL REGISTER on January 17, 1958.

There was no opposition or objection at the public hearing to the proposed amendments to the order, as amended, by any interested party who may be affected thereby. All testimony adduced at the hearing unequivocally favored the adoption of the proposed amendments to the order, as amended, and all interested parties requested immediate action on the issuance of the order amending the order, as amended, to protect the integrity of the pooling system, to effectuate the intent and purpose of the basic law and regulatory order, and to facilitate the orderly handling of milk excess to Class I needs in the New England region.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective February 1, 1958, and that it would be contrary to the public interest and the orderly marketing of milk in said marketing area to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (see section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding co-operative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order) of more than 50 percent of the milk covered by the order, which is marketed within the Merrimack Valley, Massachusetts, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved

or favored by at least two-thirds of the producers who during the determined representative period (December 1957) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Merrimack Valley, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete the language of § 934.2 (d) and substitute the following:

(d) "Dairy farmer for other markets" means any of the types of dairy farmers described in subparagraphs (1), (2), and (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm;

(2) Any dairy farmer with respect to milk which is purchased from him by a dealer who operated both regulated and unregulated plants during the month and which milk is moved to a regulated plant, if that dealer caused milk from the same farm to be moved as nonpool milk to an unregulated plant during the same month; and

(3) Any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler received nonpool milk during any of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February, nor any dairy farmer from whom the handler received nonpool milk during such months of October through February only at a plant which met all the applicable requirements for pool plant status under this part in those months except that it was a pool plant under Part 904, 996, or 999 of this chapter.

(4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by, the handler or dealer.

2. Delete the language of § 934.2 (k) and substitute the following:

(k) "Dealer" means any person who operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(Sec. 5, 49, Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 30th day of January 1958, to be effective on and after February 1, 1958.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-836; Filed, Feb. 3, 1958;
8:51 a. m.]

PART 996—MILK IN SPRINGFIELD, MASS.,
MARKETING AREA

ORDER AMENDING ORDER

§ 996.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of the marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Springfield, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective February 1, 1958. Any delay beyond that date in the effective date of this order amending the order, as amended, will seriously threaten the orderly marketing of milk in the Springfield, Massachusetts marketing area. The provisions of the said order are well known to handlers—the public hearing having been held on January 21, 1958; and pursuant to notice duly published in the FEDERAL REGISTER on January 17, 1958.

There was no opposition or objection at the public hearing to the proposed amendments to the order, as amended, by any interested party who may be affected thereby. All testimony adduced at the hearing unequivocally favored the adoption of the proposed amendments to the order, as amended, and all interested parties requested immediate action on the issuance of the

order amending the order, as amended, to protect the integrity of the pooling system, to effectuate the intent and purpose of the basic law and regulatory order, and to facilitate the orderly handling of milk excess to Class I needs in the New England region.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective February 1, 1958, and that it would be contrary to the public interest and the orderly marketing of milk in said marketing area to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (see section 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order) of more than 50 percent of the milk covered by the order, which is marketed within the Springfield, Massachusetts, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who during the determined representative period (December 1957) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Springfield, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete the language of § 996.2 (d) and substitute the following:

(d) "Dairy farmer for other markets" means any of the types of dairy farmers described in subparagraphs (1), (2), and (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm;

(2) Any dairy farmer with respect to milk which is purchased from him by a dealer who operated both regulated and unregulated plants during the month and which milk is moved to a regulated plant, if that dealer caused milk from the same farm to be moved as nonpool

milk to an unregulated plant during the same month; and

(3) Any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler received nonpool milk during any of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February, nor any dairy farmer from whom the handler received nonpool milk during such months of October through February only at a plant which met all the applicable requirements for pool plant status under this part in those months except that it was a pool plant under Part 904, 934, or 999 of this chapter.

(4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by, the handler or dealer.

2. Delete the language of § 996.2 (k) and substitute the following:

(k) "Dealer" means any person who operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 30th day of January 1958, to be effective on and after February 1, 1958.

[SEAL]

DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-837; Filed, Feb. 3, 1958;
8:51 a. m.]

PART 999—MILK IN WORCESTER, MASS.,
MARKETING AREA

ORDER AMENDING ORDER

§ 999.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of the marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Worcester, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective February 1, 1958. Any delay beyond that date in the effective date of this order amending the order, as amended, will seriously threaten the orderly marketing of milk in the Worcester, Massachusetts, marketing area. The provisions of the said order are well known to handlers—the public hearing having been held on January 21, 1958; and pursuant to notice duly published in the *FEDERAL REGISTER* on January 17, 1958.

There was no opposition or objection at the public hearing to the proposed amendments to the order, as amended, by any interested party who may be affected thereby. All testimony adduced at the hearing unequivocally favored the adoption of the proposed amendments to the order, as amended, and all interested parties requested immediate action on the issuance of the order amending the order, as amended, to protect the integrity of the pooling system, to effectuate the intent and purpose of the basic law and regulatory order, and to facilitate the orderly handling of milk excess to Class I needs in the New England region.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective February 1, 1958, and that it would be contrary to the public interest and the orderly marketing of milk in said marketing area to delay the effective date of this amendment for 30 days after its publication in the *FEDERAL REGISTER* (see section 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order) of more than 50 percent of the milk covered by the order, which is marketed within the Worcester, Massachusetts, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who during the determined representative period (December 1957) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Worcester, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete the language of § 999.2 (d) and substitute the following:

(d) "Dairy farmer for other markets" means any of the types of dairy farmers described in subparagraphs (1), (2), and (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm;

(2) Any dairy farmer with respect to milk which is purchased from him by a dealer who operated both regulated and unregulated plants during the month and which milk is moved to a regulated plant, if that dealer caused milk from the same farm to be moved as nonpool milk to an unregulated plant during the same month; and

(3) Any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler received nonpool milk during any of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February, nor any dairy farmer from whom the handler received nonpool milk during such months of October through February only at a plant which met all the applicable requirements for pool plant status under this part in those months except that it was a pool plant under Part 904 of this chapter.

(4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by, the handler or dealer.

2. Delete the language of § 999.2 (k) and substitute the following:

(k) "Dealer" means any person who operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of

any fluid milk products in the marketing area.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 30th day of January 1958, to be effective on and after February 1, 1958.

[SEAL]

DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-838; Filed, Feb. 3, 1958; 8:51 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

[T. D. 6283]

PART 182—INDUSTRIAL ALCOHOL

ALCOHOL RECEIVED FROM GENERAL SERVICES ADMINISTRATION BY USERS OF TAX-FREE ALCOHOL

On November 15, 1957, a notice of proposed rule making with respect to the amendment of the regulations in 26 CFR Part 182 was published in the *FEDERAL REGISTER* (22 F. R. 9109). The proposed amendments would provide instructions relative to the receipt, storage, and reporting of alcohol obtained from the General Services Administration.

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments were received within the period of 30 days prescribed in the notice, and the regulations as so published are hereby adopted and set forth below.

This Treasury decision shall be effective on the first day of the first month which begins not less than 30 days after the date of publication in the *FEDERAL REGISTER*.

(68A Stat. 917; 26 U. S. C. 7805)

[SEAL]

RUSSELL C. HARRINGTON,
Commissioner.

Approved: January 29, 1958.

DAN THROOP SMITH,
Deputy to the Secretary.

In order to provide instructions relative to the receipt, storage, and reporting of alcohol obtained from the General Services Administration by holders of permits to use tax-free alcohol, 26 CFR Part 182 is amended by inserting a new undesignated centerheading and a new section, reading as follows, immediately after § 182.671:

ALCOHOL RECEIVED FROM GENERAL SERVICES ADMINISTRATION

§ 182.671a. *Receipt, storage, and records.* Any eleemosynary institution holding a basic permit, Form 1447, to use alcohol free of tax and receiving alcohol from the General Services Administration under the provisions of section 5688 (a) (2) (B) of the Internal Revenue Code shall include any quantity of alcohol so received in computing the quantity

of alcohol that may be procured under its withdrawal permit, Form 1450, during the calendar month. Such alcohol must be stored in the locked storeroom or compartment required to be provided in accordance with § 182.61; and its receipt and use must be shown on the monthly report, Form 1451, covering alcohol received from an industrial alcohol plant or bonded warehouse under permit.

[F. R. Doc. 58-821; Filed, Feb. 3, 1958; 8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1992]

PART 254—SALE, GRANT, OR LEASE OF PUBLIC LANDS FOR RECREATION AND PUBLIC PURPOSES

PUBLICATIONS, PROTESTS, PATENTS, TRANSFERS

Paragraph (c) of § 254.10 is amended to read as follows:

§ 254.10 *Publications; protests; patents; transfers.* * * *

(c) All patents under this act will contain a clause providing that if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without consent of competent authority, or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including without limitation, lessees, sublessees and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States. This clause will terminate 25 years after issuance of the patent. Transferees must meet all the qualifications of applicants under the act and will be subject to the terms and conditions of the regulations of this part.

This amendment shall take effect upon publication in the FEDERAL REGISTER.

FRED A. SEATON,
Secretary of the Interior.

JANUARY 28, 1958.

[F. R. Doc. 58-804; Filed, Feb. 3, 1958; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

Subchapter B—Renegotiation Board Regulations Under the 1951 Act

PART 1472—CONDUCT OF RENEGOTIATION FILING OF INFORMATION AND REQUESTS BY CONTRACTOR

Section 1472.5 (e). (2) *Hours of business* is amended by changing the period at the end thereof to a comma and adding the following: "except that the hours of business of the Los Angeles Regional Renegotiation Board are from 8:00 a. m. to 4:30 p. m."

(Sec. 109, 65 Stat. 22; 50 U. S. C. 1219)

Dated: January 30, 1958.

THOMAS COGGESHALL,
Chairman.

[F. R. Doc. 58-826; Filed, Feb. 3, 1958; 8:49 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

LONG BEACH HARBOR, CALIF.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.711 (a) (1) governing the operation of the retractable pontoon bridge across Long Beach Entrance Channel is hereby amended extending the afternoon closed period to relieve the congestion of highway traffic, as follows:

§ 203.711 *Los Angeles and Long Beach Harbors, Calif.*—(a) *Long Beach En-*

trance Channel; temporary retractable pontoon bridge—(1) *Closed periods.* From 7:00 to 8:00 a. m. and from 4:00 to 5:15 p. m., daily, except Sundays and holidays for Federal employees, this bridge will not be required to open for the passage of vessels, except in case of extreme emergency.

[Regs., January 15, 1958, 823.01 (Long Beach Harbor, Calif.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

[SEAL] HERBERT M. JONES,
*Major General, U. S. Army,
The Adjutant General.*

[F. R. Doc. 58-803; Filed, Feb. 3, 1958; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Depart- ment of Commerce

[DMS Regulation 1; Direction 9—Revocation]

DMS REG. 1—BASIC RULES OF THE DEFENSE MATERIALS SYSTEM

DIR. 9—SPECIAL RULES REGARDING SHIP- MENTS BY STEEL PRODUCERS AGAINST AUTHORIZED CONTROLLED MATERIAL ORDERS

REVOCATION

Direction 9 (21 F. R. 6020) to DMS Regulation No. 1 is hereby revoked. This revocation does not relieve any person of any obligation or liability incurred under Direction 9 to DMS Regulation No. 1, nor deprive any person of any rights received or accrued under said direction prior to the effective date of this revocation.

(Sec. 704, 64 Stat. 816, as amended; sec. 1, 70 Stat. 408; 50 U. S. C. App. 2154)

This revocation is effective January 30, 1958.

BUSINESS AND DEFENSE
SERVICES ADMINISTRATION,
H. B. McCoy,
Administrator.

[F. R. Doc. 58-811; Filed, Feb. 3, 1958; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 963]

[Docket No. AO-296]

IRISH POTATOES GROWN IN THE UPPER PENINSULA OF MICHIGAN

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and the ap-

plicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Marquette, Michigan, August 5-6, 1957, pursuant to notice thereof which was published in the FEDERAL REGISTER (22 F. R. 5634) upon proposed Marketing Agreement No. 136 and proposed Order No. 63 regulating the handling of Irish potatoes grown in the Upper Peninsula of Michigan.

Upon the basis of the evidence introduced at the aforesaid hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing

Service, on December 20, 1957, filed with the Hearing Clerk, United States Department of Agriculture, the recommended decision in this proceeding. The notice of the filing of such recommended decision affording opportunity to file written exception thereto was published December 27, 1957, in the FEDERAL REGISTER (22 F. R. 10741-10758). No exceptions to the recommended decision were filed.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the proposed order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the proposed order including:

(a) Definitions of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee, which shall be the administrative agency for assisting the Secretary in administration of the program;

(c) The authority for the committee to incur expenses and to levy assessments on the commodity handled;

(d) The authority to establish potato marketing research and development projects;

(e) The authority for limiting the handling of potatoes grown in the production area;

(f) The authority for establishing minimum standards of quality and maturity;

(g) The authority for establishing special regulations applicable to the handling of potatoes for specified purposes or to specified outlets including modifications of, or amendments to, grade, size, quality and other regulations;

(h) The requirement of inspection and certification of potatoes handled;

(i) The relaxation of regulations in hardship cases and the methods and procedures applicable thereto;

(j) The establishment of reporting requirements for handlers;

(k) The requirements of compliance with all provisions of the proposed order and with regulations issued pursuant thereto; and

(l) Additional terms and conditions as set forth in §§ 963.81 through 963.92 of the notice of hearing published in the FEDERAL REGISTER (22 F. R. 5634; July 17, 1957), which are common to marketing agreements and marketing orders.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) Findings with respect to the right to exercise Federal jurisdiction: The Upper Peninsula of Michigan is comprised of the Counties of Alger, Baraga, Chippewa, Delta, Dickinson, Keweenaw, Gogebic, Houghton, Iron, Luce, Mackinac, Marquette, Menominee, Ontonogan and Schoolcraft. It is a distinct potato producing area, recognized as such by growers, handlers, receivers, and others in the potato industry. This is a late crop area.

Potato production in the Upper Peninsula of Michigan is not large when compared to other important potato producing areas but it is the most important

cash crop in the Upper Peninsula and is very important to the general economy of the area. Because of climatic conditions, there is no other cash crop that can be substituted for potatoes at the present time.

Total potato production in the fifteen counties of the Upper Peninsula reached a peak of 1,561,000 hundredweight in 1949 then fell to 1,054,000 hundredweight in 1954, according to the Census of Agriculture. The 1956 crop was estimated at 1,200,000 hundredweight. The major portion of the potatoes grown in this production area enters fresh market channels with the bulk of such movement going to destinations outside of the production area. Approximately 75 percent of the shipments are marketed outside of the production area, including approximately 10 percent going to the Lower Peninsula of Michigan. Potatoes marketed outside of the State of Michigan are shipped mainly to destinations in Wisconsin, Illinois, Missouri, Kentucky, Tennessee, Ohio, Indiana, Minnesota and Iowa. Some shipments are also made to Canada. The chief competition to such potatoes is from potatoes produced in the Red River Valley of North Dakota and Minnesota, Wisconsin, lower Michigan, and Idaho. Also, there has been some competition in recent years from Maine potatoes.

Local markets within the production area which account for approximately 25 percent of the potatoes marketed, and markets in the remaining portion of the State of Michigan, which account for approximately 10 percent of the potatoes marketed, provide opportunities for handlers to effect sales the same as markets outside of the State. Opportunities for advantageous sales are eagerly sought by handlers and such opportunities are accepted regardless of whether the potatoes are sold at shipping point or destination, or in consuming markets within the State of Michigan or in Milwaukee, Chicago, Louisville, Indianapolis, or any other market. The percentage of the crop sold in interstate commerce varies each year depending on the quantity and quality of the crop in the production area and in competing areas.

Growers and handlers do not always know whether a shipment will be retailed within the State or outside the State. For example, production area potatoes are sold to chain store buyers who distribute the potatoes to their various stores within the production area, to stores within the State outside of the production area, and to stores outside of the State. Also, production area potatoes are sold by producers and handlers to truckers who pick up the potatoes at the farms or at the warehouses and transport the potatoes for resale at points which may be in the production area, in the State of Michigan outside of the production area, or in other States.

Prices of potatoes in the terminal markets, such as Chicago, Milwaukee, and Detroit, have a definite effect on prices of Upper Peninsula potatoes marketed in the production area or marketed in the State of Michigan outside the production area, or in interstate commerce. Prices of Upper Peninsula potatoes mar-

keted in the production area and in other parts of the State of Michigan have some effect on the prices of such potatoes marketed in nearby areas of other States, as prices of potatoes in each market are quickly relayed to other markets and such prices tend to be closely related and interdependent.

Prices of production area potatoes are interdependent as between shipping point and receiving markets. Factors which influence market prices at shipping point soon are reflected in prices at terminal markets, and, in turn, factors influencing prices in receiving markets are similarly reflected in market prices at shipping point. For example, it was testified that a prolonged cold spell which stops loading of potatoes in the Upper Peninsula of Michigan would affect prices of production area potatoes in the South Water Market in Chicago, because a large quantity of Upper Peninsula potatoes moves to the Chicago South Water Market and shorter supplies of such potatoes would naturally raise the prices of the remaining supplies of such potatoes in that market.

On the basis of the foregoing, it is hereby found and determined that all sales and all transportation of potatoes grown in the production area are in the current of interstate or foreign commerce, or directly burden, obstruct, or affect such commerce. It is concluded, therefore, that the right to exercise Federal jurisdiction with respect to the proposed order for Upper Peninsula of Michigan potatoes, hereinafter set forth, is established.

(2) The need for the proposed regulatory program for Upper Peninsula of Michigan potatoes is supported by substantial evidence in the record of hearing on which specific findings are made as follows:

Much of the land in the Upper Peninsula of Michigan is not suitable for farming. However, there are many acres of loam and sandy loam soils that are ideally adapted to the growing of potatoes. The climate of the area is definitely on the cool side, with July temperatures averaging 62 to 66 degrees, which is well within the ideal temperature range for potato production. The number of days without killing frosts ranges from 80 to 140. Rainfall from April through September averages from 16 to 20 inches, but is not always well distributed. Climate influenced the type of agriculture which developed in this area, i. e., dairy and potato farming. Dairy cows turn the forage crops and small grains into a higher value product, and potatoes are the one cash crop that presently is well adapted to the climate and soils of the area.

Many changes have taken place in the potato industry in the Upper Peninsula of Michigan during recent years as in other potato producing areas. In 1939, 10,772 farms reported potato acreage of 17,772 acres and production of 918,000 hundredweight. In 1954 there were 3,656 farms reporting potato acreage of 6,995 acres and production of 1,054,000 hundredweight according to the Census of Agriculture. Average yields per acre went up rapidly from 51 hundredweight

per acre in 1939 to 150 hundredweight per acre in 1954, and an estimated 180 hundredweight per acre in 1956. Fewer farmers are growing potatoes now than in previous years on fewer acres but are doing a better job.

At the present time there are approximately 360 potato farmers in the Upper Peninsula who are considered to be commercial potato growers. These commercial growers produce about 90 percent of the total potato crop. About 95 percent of these commercial potato growers are general farmers, producing hay and grain to feed their dairy herds and potatoes as a cash crop. Their potato acreage ranges mostly from 5 to 25 acres. About 5 percent of these growers are cash crop farmers growing potatoes, oats, and clover for seed or as a cover crop. Their potato acreage ranges from 50 to 200 acres. The usual farm tenure pattern in this area is that of owner-operator. This is occasionally varied by the renting of additional crop land to make an economical production unit. Such rental is usually on a cash basis and for a term of several years so that fertility can be adequately maintained.

Capital investment in land, buildings, machinery, and equipment on an Upper Peninsula dairy-potato farm usually ranges from \$25,000 to \$40,000, depending on the size of the operation. The cash crop farmer's investment may be in the neighborhood of \$75,000, and a few who market their own crops may have invested as high as \$100,000. These estimates indicate that modern potato equipment and production methods are expensive and that the production of potatoes is big business.

With fair prices for potatoes there is an opportunity for a potato grower to make a reasonable financial return on his labor and investment. However, a succession of low-price years can force farmers out of potato production. This has happened, and it affects the economy of the entire area since, because of climatic conditions, growers have not found another suitable cash crop that can be substituted for potatoes.

Prices to growers for Upper Peninsula potatoes have been, for the most part, at low percentages of parity for the past several years. From 1949 through 1956, the average farm price received for potatoes in Michigan has exceeded the Michigan parity equivalent price in only two years, 1951 and 1952. One year, 1954, was fairly close with 88 percent of parity. However, for the other five years such prices averaged only 48 to 69 percent of the Michigan parity equivalent. Prices received by Upper Peninsula potato producers are usually below the State average price because of the greater distance and higher freight costs to potato markets. As a result of a succession of low price years most potato growers in the Upper Peninsula of Michigan have been operating at a loss and many growers have been forced out of the potato business.

The per capita consumption of potatoes in the United States is approximately 100 pounds per year, regardless of whether potatoes are selling at a low price or at a high price within rather

liberal price limits. In other words, the demand for potatoes is relatively inelastic. If too many potatoes are grown and there is an oversupply available the price goes down. Changes in supply are accompanied by larger changes in price in the opposite direction. This was demonstrated by last year's market. At the beginning of the 1956 fall season, Upper Peninsula growers received about \$1.40 per hundredweight. As the season progressed the price dropped steadily until it reached a low of approximately \$1.00 per hundredweight by spring. The estimates of stocks on hand reports indicated that late winter and early spring supplies of potatoes were in excess of usual market requirements for food and seed, which excess resulted in low prices to producers.

Prices of production area potatoes are affected by the quality and sizes of such potatoes which are marketed, also by the size of the crop grown in the production area and the size and quality of the crop grown in competing areas.

It was testified that some growers and handlers in the Upper Peninsula of Michigan engage in marketing practices which tend to depress the prices producers receive for their potatoes. Some of these practices are the shipment of small sizes and lower grades of potatoes when price levels do not justify, i. e., the shipment of potatoes which the housewife does not readily accept when potatoes from competing areas with better appearance, more uniform and preferred sizes, are available for her alternate choice.

It was testified that Michigan State law prohibits the sale of potatoes which do not meet the requirements of any U. S. Grade for potatoes. However, this law does not apply to growers who sell potatoes produced by themselves directly to consumers, also; Federal-State inspection is not compulsory. It was testified that some growers sell inferior or substandard quality potatoes to dealers in the dealers' own bags at low prices. The dealers use these potatoes for advertising price specials on "good eating quality potatoes." The effect of such sales is to depress the price of better quality potatoes and, at the same time, to displace good quality potatoes.

There is generally a substantial price disadvantage for U. S. No. 2 potatoes which ranges from \$0.50 to \$1.00 per hundredweight less for U. S. No. 2's than for U. S. No. 1 quality. Since the effect of such sales is to depress the price of U. S. No. 1 quality potatoes, it may be desirable, at times when large supplies are available, to restrict the movement of U. S. No. 2 potatoes to certain outlets. At other times, due to more favorable supply and price factors, U. S. No. 2 quality potatoes may not need to be restricted in movement.

The shipment of small sizes to the table stock market, such as size B potatoes, which are 1½ to 2 inches in diameter, and size A with a minimum of 1½ inches, results in a poorly received pack when competitive areas are limiting their packs to 2 inches and 2¼ inches minimum. Industry witnesses testified that potato producing areas equipped with marketing orders possess an advantage

over other areas operating without such orders. Idaho and Maine were cited as examples of what can be accomplished with marketing regulations. Several years of diligent adherence to a marketing order have placed Idaho Russets in an enviable price position. Also, during the past season Upper Peninsula potatoes encountered strong competition from Maine potatoes which were packed to a minimum of 2¼ inches and were sold in markets which would normally be supplied by Michigan potatoes.

It was estimated that, on the average, 10 to 15 percent of the crop in the production area falls within the lower grades and undesirable sizes, including the extremely large size potatoes, which are normally discounted in terms of prices to producers. The shipment of such potatoes to the table stock market results in a poorly received pack, is damaging to the reputation of the production area, and returns low prices to producers. By having authority in the proposed order to regulate the shipments of potatoes by grades, sizes and quality, it would be possible to remove from fresh market channels the lower grades and undesirable sizes, and to permit the marketing of only the better grades and preferred sizes, as supply conditions warrant, thereby establishing a reputation in the trade for consistently good packs of potatoes from the production area.

The withholding from the table stock market of such grades and sizes which generally cause price discounts also reduces the quantity marketed, and, as a result of the better packs and reduced supplies marketed, returns to growers should be improved.

It was further testified that the late crop of potatoes in the United States is principally a storage crop. Its price structure is determined mainly by the size of the crop available for marketing and its composition. Upper Peninsula potato prices are affected by the size and composition of the crop and Upper Peninsula potatoes contribute to its size and composition.

The need for a marketing agreement and order program, such as the proposed order, to eliminate certain price depressing practices with respect to the marketing of potatoes grown in the production area is clearly established in the record. The establishment of more orderly marketing conditions such as may be brought about by marketing agreement and order regulations will tend to establish parity prices to producers for potatoes grown in the production area. Also, the exercise of the authority in the proposed order with respect to the establishment and maintenance in effect of minimum standards of quality, in terms of grades and sizes, together with grading and inspection requirements, when prices are above the parity level, would tend to effectuate such orderly marketing of production area potatoes as will be in the public interest.

(3) It is necessary to define the agricultural commodity to be regulated under the proposed order. The agricultural commodity, botanically known as "*Solanum tuberosum*", is commonly known to growers and handlers in the

production area, as "potatoes" or "Irish potatoes." The term "potatoes" as used in the proposed order identifies the agricultural commodity involved, and distinguishes it from other agricultural commodities, such as sweet potatoes. Potatoes are the principal agricultural crop grown by farmers in the production area. Some of the common varieties of potatoes grown in this production area are Sebago, Cherokee, Ontario, Sequoia, Green Mountain, Russet Rural, Pontiac, Kennebec, Katahdin and Russet Burbank. The definition of the term "potatoes" should include all varieties of Irish potatoes grown in the production area. This definition establishes the commodity with respect to which the handling activities related thereto are subject to authority of the proposed order.

"Production area" is defined to mean the area in which potatoes must be grown before the handling of such potatoes is subject to regulation authorized by the proposed order. The production area includes all the territory within the boundaries of Alger, Baraga, Chippewa, Delta, Dickinson, Keweenaw, Gogebic, Houghton, Iron, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties in Michigan, which geographic area is commonly referred to as the Upper Peninsula of Michigan. The boundaries of the Upper Peninsula of Michigan are distinct and well known by producers and handlers within the Upper Peninsula as well as by potato handlers outside the area. Natural geographic boundaries favor the establishment of the proposed production area which is generally recognized by the potato industry as a distinct potato producing area. The Upper Peninsula is bound on the north by Lake Superior; on the east by St. Marys' River, and connecting waterways; on the south-east by Lake Huron and Lake Michigan; and the southwest by the State of Wisconsin. The production area as set forth in the notice of hearing included Florence and Marinette Counties of the State of Wisconsin, however, the record of hearing shows that there was no evidence to support the inclusion of these two Wisconsin counties in the proposed production area. Therefore, the production area is defined to include only the 15 counties in the Upper Peninsula of Michigan. These boundaries do not cut through any major potato producing section.

The same varieties of potatoes are grown throughout the Upper Peninsula production area and the grading and quality standards for commercial sales, as well as the markets, are substantially the same. The general flow of potato shipments is from north to south with the overland outlets limited to a few roads and railroads. To exclude any portion of any county from the production area would tend to defeat the purpose of the proposed order in that poor quality potatoes from a section outside the regulated area could then be transported and marketed free from regulation and thereby depress the prices of regulated potatoes with which they compete. All territory included within the boundaries of the Upper Peninsula of

Michigan constitutes the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and this production area should be defined as herein-after set forth.

(4) The term "handler" should be defined to identify the persons who handle potatoes in the manner described and set forth in the definition of "handle", because such persons are to be subject to the proposed order and the regulations issued thereunder. "Handler" should be synonymous with "shipper" and a handler should include any individual, partnership, corporation, association, or any other business unit which handles potatoes. Such persons are responsible for the grade, size, quality, and maturity of the potatoes which are transported to market or sold; and such persons should, therefore, be considered as handlers. More than one handler may be involved in the handling of a given lot of potatoes and each such handler should be responsible for complying with the terms of the proposed order.

Common or contract carriers transporting potatoes they do not own should not be considered as handlers for the reason that they do not have a proprietary interest in the potatoes or any control over the grade, size, or quality of the potatoes. They merely transport the potatoes for a fee, as a payment for freight, to destinations selected by others.

The definition of the term "handler" should apply to any person, including a producer, when such person performs any handling activities, so as to assure that all handling of potatoes will be in accordance with the proposed order and regulations issued thereunder. With respect to handlers who conduct their businesses other than as individuals, such as firms that have sales managers or packing house managers, any handling activities engaged in by employees or officers of such handlers should be construed as handling caused by the principal company, as "handler." Hence, the term "handler" would cover the owner of a firm, even though such person does not personally sell or transport the potatoes. Such term should also include, in addition to the owner and officers, any other individuals of a firm handling potatoes who, in a supervisory capacity, are directly responsible for, and consequently cause, the sale or transportation of the commodity. Therefore, the term "handler" which is synonymous with shipper, should mean any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes or causes potatoes to be handled.

The term "handle" should be synonymous with "ship" under the proposed order and should be defined to determine the particular phases of potato marketing which place the potatoes in commerce within the production area or between the production area and any point outside thereof.

The growing and harvesting of potatoes in the production area are producer functions and should be construed as operations of the producer. Hence, the definition of "handle" should not include

such activities of a producer in his capacity as a producer.

Handling of potatoes under the proposed order would begin after the harvest of the potatoes and after they have been lifted and are on top of the ground, and includes each of the successive selling or transporting activities with respect to such potatoes. It was testified that it is unlawful to sell ungraded potatoes to any retail outlet in Michigan or to ship ungraded potatoes out of the State. In this connection it would appear that the grading of the potatoes, which is a necessary action prior to selling or transporting, is a prerequisite to the handling function. The same would apply to the packaging of the potatoes, which is also necessary prior to sale. It is desirable and appropriate that the definition of "handle" should include each selling, as well as transporting, activity so that each person who performs, or causes to be performed, any such activity with respect to potatoes would be responsible for seeing to it that the potatoes are handled in accordance with such regulations as may be in effect under the proposed order.

The record shows that most of the potatoes grown in the production area are graded, packaged, and sold or transported by the producers thereof. The activities of selling or transporting such potatoes would, under the definition of the term "handle", constitute handling activities and, in such instances would make the producer a handler under the proposed order and subject to any regulations issued pursuant thereto.

It was testified that the transporting of ungraded potatoes to a storage within the production area for storing, or to a packing house in the production area for grading and packing, should not be considered as "handling" because the potatoes have not, as yet, been prepared for market. After they are graded and packed, however, such potatoes should be handled in conformity to the proposed order, and each handler of such potatoes should be responsible for complying with the regulations issued thereunder. The definition of "handle" should, therefore, reflect such exception.

Compliance with the proposed order and regulations thereunder can readily be determined by the person who is grading or preparing the potatoes for market. The primary responsibility for the grade, size, quality, and other requirements of the potatoes in any given lot should rest with the person responsible for transporting or selling such potatoes, i. e., placing them in the channels of commerce. In most cases, such person will be the one who graded, or at least was responsible for grading, such potatoes for market. Of course, all subsequent handlers of such potatoes should also have the responsibility for all of the requirements at the time such persons handle the potatoes. Otherwise the benefits of compliance by the initial handler could be nullified and thereby prevent the effectuation of the declared policy of the act.

It is a common practice in the production area for a person to act as a broker, or agent, for a grower to arrange for the

sale and shipment of the grower's potatoes. In this case, the grower grades and packages the potatoes and the broker, or agent, makes the sale and ships the potatoes. Both the grower and his broker, or agent, would be performing handling activities. In some cases, the grower grades, packages, and sells the potatoes outright to a wholesaler who in turn may or may not repackage the potatoes, or further prepare them for market, but who resells the potatoes. Here, too, both the grower and the wholesaler would each be performing a handling activity.

In the light of the applicable provisions of the act, the definition of "handle" should not be applicable to the activities of a retailer in his capacity as a retailer.

With the exception of the activities which are specifically exempted, the term "handle" or "ship" should be defined in the proposed order to include all selling and transporting activities within the production area or between the production area and any point outside thereof, as well as the causing of such activities.

(5) Certain terms and provisions of the proposed order should be defined and explained for purposes of designating specifically their applicability and limitations whenever they are used.

(a) The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead. The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed regulatory program is to be operative. The definition of "person" follows the definition of that term as set forth in the act, and is intended to cover all possible legal entities. The use of such terms is essential to the basic framework of the proposed order; and these terms should be defined accordingly.

"Producer" should be defined to mean any person who is engaged in the production of potatoes within the production area and who is producing such potatoes for market. The term should be limited to those who have an ownership interest in the potatoes. It should not include laborers or others who perform work for a fee or for hire in producing the potatoes. A definition of the term "producer" is necessary for appropriate determinations as to eligibility to vote for, and to serve as, a producer member or alternate member of the Upper Peninsula Potato Committee, the administrative committee as hereinafter defined. Also, the term producer would provide a basis for determining eligibility for exemptions under the proposed order.

The term "varieties" should be included in the proposed order so that the administrative committee may consider the differences in the characteristics of potatoes of different varieties in connection with its recommendations for

regulation. Although the great bulk of the potatoes now being produced in the production area fall within the general group known as round white varieties, such as the Sebago, Cherokee, Ontario, Sequoia, and Green Mountain, long white varieties such as Russet Burbank, and red, or red skinned, varieties such as Pontiac and LaSoda, are also produced. Differences by varieties should be recognized by the committee in its deliberations; and the proposed order permits different regulations for different varieties as may be determined to be necessary when the circumstances so warrant. The definition of "varieties", as set forth in the proposed order, is appropriate for determining different varieties of potatoes grown in the production area.

The terms "seed potatoes" or "seed", and "table stock potatoes" or "table stock" are terms commonly used in the production area. "Seed" is a term commonly used to distinguish seed potatoes from "table stock" potatoes. Growers recognize that there are different demands for such classes of potatoes. Therefore, the terms "seed potatoes" or "seed", and "table stock potatoes" or "table stock" are defined in the proposed order so that different regulations may be authorized under appropriate circumstances for each. "Seed potatoes" or "seed" should be defined to include only those potatoes grown in the production area which are officially certified, tagged, or otherwise appropriately identified under the supervision of the official seed certifying agency of the State of Michigan, as is currently the practice in the production area, or other seed certification agencies which the Secretary may recognize. In order to assure that there will always be a recognized seed certification agency available to certify seed, the Secretary should be given authority to designate an appropriate agency to perform this service in the event the State agency is discontinued. "Table stock potatoes" are commonly referred to in the production area as all potatoes, other than seed potatoes, used for food, and including potatoes used for manufacturing and other purposes. Table stock potatoes should, therefore, be defined as all potatoes other than "seed potatoes." Hence, the total of seed potatoes plus table stock potatoes will equal all potatoes to be covered by the proposed order.

"Grading" and "preparing for market" are synonymous in the proposed order and mean the sorting of potatoes by hand or mechanical means, or both, into grade, quality, or size classifications. Upper Peninsula potatoes are currently sorted into some such classifications, e. g., U. S. No. 1; U. S. No. 1 Size A; U. S. No. 2; and "pickouts." Grading is usually a mechanical operation whereby potatoes are carried by a mechanical conveyor over a series of moving screens and belts where sizes are separated, and good quality, as represented by preferred grades and sizes, is sorted from the poor, so that the potatoes which are to go to preferred price outlets are separated from those going to lower price outlets. This grading, or preparation for market,

is an operation which applies to all potatoes grown in the production area even, though the extent to which the potatoes are sorted may vary considerably according to the types of outlets. A definition of "grading" or "preparing for market" based on the foregoing should, therefore, be as set forth in the proposed order.

Definitions of "grade" and "size" are incorporated in the proposed order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently regulations issued in such terms. Grade and size, the essential terms in which regulations are issued, should be defined as comprising the meanings assigned to these terms (i) in the official standards for potatoes issued by the United States Department of Agriculture (7 CFR §§ 51.1540 to 51.1559 and §§ 51.1575 to 51.1587), and in modifications or amendments of such standards, and (ii) in such variations based thereon as may be set forth in regulations under the proposed order. Regulations under the proposed order can then use such terms ("grade" and "size") with the constant meaning assigned them in such standards or in such modified or amended standards; or in the variations thereof (e. g. by prescribing that a minimum percentage of the potatoes shall meet certain grade requirements). Inspectors of the Federal or Federal-State Inspection Service are qualified to certify the grade and size of potatoes grown in the proposed production area, in terms of any of the aforesaid standards, modifications, or amendments, or variations based thereon.

The United States Standards, and the United States Consumer Standards, for potatoes provide that in order to meet certain grade requirements potatoes shall be mature. According to the same standards, "mature" means that the outer skin (epidermis) does not loosen or "feather" readily during ordinary handling and that practically no skin has been removed from the potatoes. In addition to such definition of "mature" in terms of the condition of the outer skin, the United States Standards for Potatoes set forth various skinning classifications. Maturity is a factor of quality and, as such, should be construed to have the same meaning as set forth in the aforesaid standards, including the skinning classifications. The proposed order authorizes the issuance of maturity regulations; and, according to the testimony given on this subject, the degree of maturity of potatoes should be determined on the basis of the skinning classifications, or degree of skinning, set forth in such standards.

The term "pack" is commonly used throughout the Upper Peninsula potato industry and refers to one or more of the combinations of factors relating to the grade, variety, quality, size, and maturity of the potatoes in particular containers. For example, U. S. No. 1, size A, potatoes in 100 pound bags are referred to as a specific pack. Differences in packs are also recognized by the size of the package. For example, potatoes in ten pound bags are referred to as a 10-pound pack. It is essential that such differentiation should be authorized in the proposed or-

der so that the appropriate regulations tailored to the particular pack involved, and the market demands therefor, may be made effective and thereby tend to achieve the declared policy of the act. The definition of the term "pack" should, therefore, be as set forth in the proposed order.

A definition of "container" should be included in the proposed order as a basis for differentiating among the numerous shipping units in which potatoes move to market and for the permissible application of different regulations to such different shipping units. The Upper Peninsula potato industry, as represented by growers and shippers at the hearing, indicated that undesirable practices (as hereinafter discussed) in the marketing of potatoes relating to net weights and numerous container types and sizes tend to create disorderly marketing conditions. Incorporation in the proposed order of authority relating to containers as set forth in the act, will provide a basis for alleviation through appropriate regulations of any problems which may develop in connection with containers. The principal containers used at present in marketing potatoes are burlap bags, paper bags, mesh bags, paper and mesh bags, polyethylene bags, boxes, pallets, and bulk loads. Accordingly, the term "container" should be defined as hereinafter set forth.

The definition of "committee" is incorporated in the proposed order to identify the administrative agency responsible for assisting in the administration of the program. Committee should mean the Upper Peninsula Potato Committee as authorized by the act and which is necessary and incidental to the operation of the proposed order.

"District" should be defined in the proposed order as referring to each of the geographical sections or divisions of the production area, either as initially established or as later reestablished, in order to provide a basis for the nomination and selection of committee members and for regulatory purposes. The proposed division into districts is adequate and equitable from the standpoint of the present situation and should provide a practical basis for the purposes intended.

"Fiscal period" should be defined to mean the period beginning and ending on the dates recommended by the committee and approved by the Secretary. This definition provides authority for the committee and the Secretary to set the beginning of a fiscal period relatively close to the opening of a marketing season so that a minimum of expense may be incurred by the committee prior to receipt of revenue. There is a definite break in shipments between one potato marketing season and another in the production area and no difficulty should be encountered in establishing the beginning of one marketing year and the close of another. Such flexibility should facilitate operations under the proposed order.

The definition of "export" is incorporated in the proposed order because export demand may, and frequently does, differ from domestic demand for particu-

lar varieties, grades and sizes of potatoes; and this definition is intended to establish a basis whereby different regulations may be authorized for export shipments compared with domestic shipments. Export markets may have requirements which differ from those of domestic markets and special regulations may be justified. "Export" should be defined to include all shipments of potatoes outside the continental United States.

No evidence was offered to support the provisions of § 963.20 "Washed potatoes" and § 963.21 "Label" which were included in the notice of hearing; hence, these sections are dropped.

(b) The proposed order should provide for the selection by the Secretary of an administrative committee, called the Upper Peninsula Potato Committee, which shall have the responsibility for local administration of the proposed order. The act provides that marketing agreement and order programs may be administered locally by agencies which are selected by the Secretary. The record shows that such a local administrative agency should be established which will be representative of the Upper Peninsula potato industry and responsible in the administration of the program. The committee should consist of nine members, with a like number of alternates, to provide adequate industry representation on the committee, and be authorized to recommend marketing regulations and to take care of other administrative responsibilities. The committee membership, to be made up of two producer members and one handler member from each of the three proposed districts, should give potato producers and handlers equitable representation on the committee. The record shows that this plan of representation has received careful study and consideration by the industry and such division of responsibility between producers and handlers is considered to be appropriate and equitable.

Provision is made for an alternate for each member of the committee. Circumstances may arise when it is impossible for a member or members to attend particular meetings of the committee; and positions may become vacant because of resignations or other reasons. In such situations it is desirable for the respective alternates to serve in lieu of the absent members so that there will be no interruptions of committee operations and to assure producers and handlers in all districts of the production area representation in the conduct of all committee business. Also, alternates could relieve members by performing other assigned tasks necessary for administration of the program. Such alternates should have the same qualifications as the members in order that the interest of all producers and handlers will be adequately considered at all times in the administration of the proposed order.

Each member and alternate of the Upper Peninsula Potato Committee selected to represent producers in a particular district should be a producer of potatoes, or an officer or employee of a corporate producer or other type of business unit engaged in producing potatoes,

in such district and should be a resident thereof. Individuals with such qualifications will, most likely, be acquainted with the particular problems of producing and marketing potatoes in such district and for that reason can be expected to reflect the views of producers in such districts with respect to committee actions. A committee member or alternate representing handlers in a particular district should be a handler, or an officer or an employee of a corporate handler or other type of business unit, engaged in handling potatoes in such district and a resident thereof. Handlers who have the above qualifications would be intimately acquainted with the problems of handling potatoes grown in such district and each may reasonably be expected to present accurately the problems of marketing potatoes grown in such district. Such qualifications should help to assure that the interests of the handler group from which each is selected will be adequately represented in committee deliberations.

The selection of committee members and alternates on the basis of district, as set forth in the proposed order, provides a practicable and equitable manner of representation in that the geographical basis used for the selection of the committee membership is also related to the acreage and production of potatoes within the production area.

Each individual selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. Such acceptance should be filed within ten days after notification of appointment so that the composition of the committee will not be unduly delayed. This requirement is necessary so that the Secretary may be in a position to select some other eligible person to serve as a member or alternate in the event the initially selected member or alternate fails to indicate his willingness and intention to serve on the committee.

The term of office for committee members and alternates should be provided in the proposed order, to establish an orderly procedure for changing the membership. The term of office of producer members and alternates should be for three years, and that of handler members and alternates for one year, beginning on July 1 and ending June 30. It is desirable that producer members and alternates should serve more than one year so that they will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service assisting the Secretary to carry out the declared policy of the act and, in subsequent seasons, the committee will have the benefit of their previous experience. Since only one handler member will represent a particular district, and since handlers are generally experienced in marketing problems for potatoes, it is appropriate that handlers in each district should be given an opportunity to designate a new member for the committee each year.

The terms of office of one-third of the initial producer members and alternates should be for one year, another third for

two years, and the remaining third for three years, so that the terms of office of one-third of the producer membership on the committee will terminate at the end of each year. In this way a turnover of two producer members and alternates each year would be provided under the three-year term of office and such a plan is considered desirable by the industry as shown by the evidence. This will facilitate the establishment of staggered terms of office as provided in the proposed order. Committee members and alternates should serve during the term of office for which selected and until their successors are selected and have qualified to insure continuity of committee operations. Evidence shows it is appropriate and desirable that no member, whether producer or handler, shall serve for more than three consecutive terms. A producer member or handler member may be selected again if, after serving three consecutive terms, he does not serve in such capacity for an intervening year.

A quorum of the Upper Peninsula Potato Committee should consist of six members and six concurring votes should be necessary for passing any motion or approving any action of the committee. Such quorum and voting requirements constituting a minimum of two-thirds of the membership are deemed reasonable and adequate. The committee should be authorized to vote by telephone, telegraph, or other means of communication when a matter to be considered is so routine it would be unreasonable to call for an assembled meeting, or when rapid action is necessary because of an emergency. Votes cast at other than assembled meetings should be confirmed promptly in writing to provide a written record of the votes so cast. In case of an assembled meeting, however, all votes should be cast in person, so as to preclude the obtaining of telephone or other types of votes from members or alternates who did not participate in the assembled meeting's deliberations.

The committee should be given those specific powers listed in the proposed order, and which are set forth in section 8c (7) (C) of the act, because such powers are authorized to be granted by the enabling statutory authority. They are common to marketing agreements and orders operating under the act and are necessary for the proper functioning of an agency of the character set forth in the proposed order.

The duties set forth in the proposed order for the committee are similar to those generally specified for administrative agencies under other marketing agreements and marketing orders of this nature. These duties should enable the committee to undertake and perform such activities as may be necessary for it to carry out its prescribed responsibilities. Such committee duties are necessary for the discharge of this administrative agency's responsibilities. It should be recognized, however, that specified duties are not necessarily all inclusive, in that there may be other duties which are incidental to, and not inconsistent with, the terms and conditions of the proposed order which the committee

may need to perform in connection with its operations thereunder.

Committee members and alternates should be reimbursed for reasonable expenses necessarily incurred when they are engaged in committee business. These expenses should be paid since it would be unfair to request the members and alternates to pay for such expenses incurred in the interest of all potato producers and handlers in the production area. On the basis of the testimony of witnesses at the hearing, the proposed order should also provide that, after the first fiscal year of operation, members and alternates of the Upper Peninsula Potato Committee may receive compensation for the time spent in attending committee meetings. The amount of this compensation, not to exceed \$10.00 per day, should be determined by the committee and approved by the Secretary. In order for an alternate adequately to represent his district at any committee meeting in place of an absent member, it may be desirable that he should have attended previous meetings, along with the member, so as to have a full understanding of all background discussions leading up to action that may be taken at the meeting. Also, an alternate may, in future years, be selected as a member on the committee; and to this extent, attendance at meetings by alternate members would be helpful. Although only committee members, and alternates acting as members, have authority to vote on actions taken by the committee, it is often important for the committee to obtain as wide a representation as practical of producer and handler attitudes toward a proposed regulation or other matters. The proposed order should provide that the committee, at its discretion when conditions warrant, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective members. The same compensation and reimbursement that is available to members should also be made available to alternate members when they are so requested to attend such meetings as alternates.

Districts are established in the proposed order to provide a geographical basis for the selection of committee membership. For this purpose, the production area has been divided into three districts including all of the 15 counties in Upper Peninsula of Michigan. The districts as set forth in the proposed order constitute what are generally known and recognized by the industry as major potato growing sections within the production area, and such districts represent the best basis which could be devised at this time for providing a fair, adequate and equitable representation on the committee.

A provision for redistricting and reapportionment of committee membership is necessary to enable the committee and the Secretary to consider from time to time whether the basis for representation has changed or could be improved and how such improvement should be made. Future shifts or other changes in the development of acreage within

the production area cannot be foreseen at the present time. Therefore, it is desirable to provide flexibility of operation, so that if it should be in the best interests of the administration of the proposed order to change the boundaries of some districts, or to reapportion the committee membership, the committee may so recommend, and the Secretary take such action. However, there should be no change in the total number of committee members or in the total number of districts so as to assure that growers and handlers in any district will not be deprived of representation.

It is recognized that the Secretary has the legal authority and responsibility for the selection of the members and alternates of the committee, and that the industry has the responsibility for recommending appropriate nominees to the Secretary so that he may make his selection from such nominees or from other eligible persons. The nomination procedure provided in the proposed order will assure that the names of appropriate prospective members and alternates recommended by producers and handlers in the production area will be available to the Secretary.

Since the membership of the committee will not have been selected by the time the proposed order becomes effective, the Secretary should have the authority to call initial nomination meetings. The responsibility for calling subsequent nomination meetings should rest with the committee as one of its administrative duties. The committee may work with other existing organizations, such as grower and shipper associations, in conducting such nomination meetings.

After the proposed order becomes operative and the committee membership is selected, nomination meetings for the purpose of nominating members of the committee and their alternates should be held or caused to be held by the committee prior to May 1 of each year. Inasmuch as the term of office for committee members and alternates begins July 1 and ends on June 30, these nomination meetings should be held in sufficient time to assure that nominations for such members and alternates will be before the Secretary well in advance of the time for him to select members and alternates prior to the beginning of each new term of office. Not less than one nominee should be designated for each position as member, and each position as alternate member, which is to be filled the following July 1.

The proposed order provides that only producers shall participate in designating nominees for producer members and alternates, and only handlers shall participate in designating nominees for handler members and their alternates. This is necessary to insure that the interests of each group are properly safeguarded and that the nominees truly reflect the choices of each group. If a person is both a producer and a handler he may vote either as a producer or as a handler by selecting the group with which he wishes to participate. Such person may not vote both as a producer and a handler because to do so would

enable him to participate in nominations to a greater degree than persons who are only producers or only handlers.

Each producer and handler should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates (including partners), and representatives, in designating nominees for committee members and alternates regardless of the number of districts in which he produces or handles potatoes. Voting on any other basis would not provide equitable participation or representation. If a producer or handler could cast more than one vote by reason of operating in more than one district, such producer or handler would have an advantage in selecting nominees over producers or handlers operating in only one district. Also, if more than one vote were permitted, large producers or handlers could dominate the election by means of their partners, agents, subsidiaries, affiliates and representatives, and nominate the producers and handlers who may not be favored by a majority of producers or of handlers. Each eligible producer or handler's privilege of casting only one vote should, however, be construed to mean that one vote may be cast for each applicable position to be filled.

In order that there will be an administrative agency in existence at all times to administer the proposed order, the Secretary should be allowed to select committee members and alternates without regard to nominations if, for any reason, nominations are not submitted to him in conformance with the procedure prescribed therein. Such selection, however, should be on the basis of the representation provided in the proposed order to insure that all producers and handlers in the production area are fairly and adequately represented on the committee.

It is also desirable and necessary that the Secretary should be authorized to fill committee vacancies that occur during a term of office without regard to nominations, if the names of nominees to fill any such vacancies are not submitted to the Secretary within 30 days after such vacancies occur. This is necessary in order to insure that all portions of the production area are adequately represented at all times in the conduct of committee business.

(c) The committee should be required to prepare a budget of expenses at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of expenditures and income necessary for the administration of the proposed order. Each such budget should be presented to the Secretary with an analysis of its components and an explanation thereof in the form of a report on such budget. It is desirable that the committee should recommend a rate of assessment to the Secretary designed to bring in during each fiscal period sufficient income to cover estimated expenses to be incurred by the committee. This will furnish the Secretary with adequate data and information concerning the committee's proposed activities and enable him to determine whether the proposed expenses, and re-

lated rate of assessment, are reasonable and likely to be incurred.

The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of reasonable expenses by administrative agencies, such as the proposed Upper Peninsula Potato Committee, and the statute also requires that each order issued pursuant to the act shall contain provisions requiring handlers to pay their pro rata share of the necessary expenses.

Each handler should pay the committee upon demand his pro rata share of such reasonable expenses which the Secretary finds will be incurred necessarily by the committee during each fiscal period. Such pro rata share of expenses should be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof during a specified fiscal period and the total quantity of potatoes so handled by all handlers during the same fiscal period; and such proration of expenses will be equitable among handlers. In most cases, the handler who first ships the potatoes also applies for inspection, and in such instances the inspected shipments could serve as a basis for computing assessments due. Such handler is the one who starts the commodity on its way to market. Therefore, such person, i. e., the first handler, should be the person who is to pay the assessments. For potatoes that are not so inspected, the handler responsible for the assessment should continue to be the handler who first handles the potatoes and should be so designated by the committee. The requirement that the first handler pay assessments will preclude multiple assessments on potatoes that are handled more than once, and handlers will be able to arrange their operations accordingly. The rate of assessment should be established by the Secretary on the basis of the committee's recommendation, or other available information, so as to assure the imposition of such assessments as are consistent with the act.

At any time during or subsequent to a given fiscal period the committee should be authorized to recommend the approval of an amended budget and to recommend the fixing of an increased rate of assessment to balance the revenues and necessary committee expense for such period. Upon the basis of such recommendation, or other available information, the Secretary should be authorized to approve an amended budget, and, if he finds that the then current rate of assessment is insufficient to cover committee expenses for the administration of the proposed order, he should be authorized to increase the rate of assessment. Such increased rate should apply to all potatoes handled under the proposed order during such fiscal period, including those previously handled, by first handlers during the specified fiscal period so as to avoid inequities among handlers.

In order to provide funds to carry out the functions of the committee at the beginning of a fiscal period, especially during the first season of operation, prior to the time assessment income becomes

available, it would be desirable that handlers be permitted to make advance payments of assessments to the committee. Accordingly, a provision is included in the proposed order to permit such advance payments by handlers.

Any funds remaining at the end of a fiscal period in excess of expenses for that period should be credited as refunds to contributing handlers on a proportionate basis or may be carried over as a reserve for contingency or liquidation. Each handler entitled thereto should have such refund credited to his account for the following year's operation unless he demands payment thereof, in which event he should be entitled to be paid his refund as soon as practicable.

It is generally accepted as good business practice to provide during a fiscal period for unforeseen contingencies, such as adverse weather conditions, which might result in a substantially reduced crop. The net effect of a reduced crop would be to greatly reduce shipments and assessment revenue, or it could cause the discontinuance of regulation and collection of assessments with a possible consequence of insufficient funds for the maintenance and functioning of the committee. In order to preserve at least a nucleus of an administrative organization and thus assure the performance of a minimum of functions during such periods, especially during a fiscal period when reduced or no revenue is collected by way of current assessments, the committee should have authority, with the approval of the Secretary, to set up a reserve account and to use such reserve during any such period when needed. Such reserve should also be used to defray the cost of liquidation in the event of termination of the proposed order.

Evidence presented at the hearing was to the effect that nearly all of the production of potatoes in the production area is marketed year after year by the same handlers and that it would be equitable to all handlers, and far less burdensome to them, to contribute to the establishment of such an operating reserve during years of normal production rather than to be required to pay a high rate of assessment occasioned by a deficit during a year when the crop is materially reduced.

Funds in the reserve account might properly serve another purpose. At the beginning of each fiscal period there will be a need for operating funds at a time when there will usually be little revenue from assessments. It is economical and practical and the committee should be so authorized, to use the funds in the reserve account until such time as assessments provide adequate revenue to meet current expenses.

It is contemplated that any such reserve will be built up over a period of years. In order that such reserve funds should not be accumulated beyond a reasonable amount, it was proposed that a limit of approximately one fiscal year's expense be provided. A lesser amount, determined from experience, may prove sufficient.

In the event of termination of the order, any funds remaining after liquida-

tion, including any balance in the reserve account, should be refunded, to the extent practicable, to the handlers from whom such funds were collected.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purposes of the proposed order. The committee should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary.

The committee should provide periodic reports on its fiscal operations. It is expected that an audit report will be furnished the Secretary at the end of each fiscal period covering the committee's fiscal operations for that period. Additional audit reports will be furnished covering any period at the request of the Secretary or at the discretion of the committee in order to maintain appropriate supervision and control of the committee's affairs. Also, financial statements reflecting the current fiscal position of the committee should be furnished the Secretary periodically, as requested. Copies of such reports should be made available at the office of the committee for inspection by interested producers and handlers.

(d) A provision for the establishment of marketing research and development projects designed to assist, improve, or promote marketing, distribution, and consumption of potatoes is authorized by the act. Such authorization should be included in the proposed order.

Through the medium of research investigations, the committee could be able to assemble and evaluate data on growing, harvesting, shipping, marketing, and other factors with respect to potatoes which would be of value in determining what regulations should be established in accordance with the act and the proposed order for the benefit of the potato industry in the production area. As the committee becomes more aware of the value and need for marketing research and development, other projects will undoubtedly be initiated, the need for which may not have been foreseen during the course of the hearing. The committee should be empowered to engage in such projects (except advertising and trade promotion projects), to spend assessment funds for them, and to consult and cooperate with appropriate agencies with regard to their establishment. The committee may be limited by the lack of facilities and trained technicians in carrying out any such projects; and it should be authorized to enter into contracts for their development with qualified agencies, such as State universities, and other public or private agencies.

Prior to engaging in any such activities, the committee should, of course, submit to the Secretary for his approval the plans for each project. Such plans should set forth the details, including the cost and the objectives to be accomplished, so as to insure, among other things, that the projects are within the purview of the act and the proposed order. The cost of any such projects should be included in the budget for approval and such cost should be defrayed

by the use of assessment funds as authorized by the act.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for potatoes, among other commodities, as will tend to establish parity prices therefor, and to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements as will be in the public interest. The regulation of potato shipments by grade, size, quality or any combination thereof, as authorized in the proposed order, provides a means of carrying out such policy.

The procedures and methods which are outlined in the proposed order for the development of marketing policies provide a practical basis for the committee to obtain adequate information relating to potato marketing problems. As a prerequisite to making recommendations with respect to limitations of shipments in accordance with the proposed order, the committee should be required to consider and develop a marketing policy for the handling of potatoes.

A marketing policy should set forth the over-all plan of the committee for the orderly marketing of potatoes grown in the production area during the ensuing season, including, to the extent practical, the kinds of regulations that may be desirable. Such marketing policy should be made available to the Secretary and to producers and handlers prior to the beginning of each marketing season. It would thus enable growers and handlers to plan their operations in the light of the committee's marketing policy and the kinds of regulations that may become effective under the proposed order. It would also provide the Secretary with helpful information which should facilitate his consideration and appraisal of the recommendations of the committee for marketing regulations.

The factors set forth in the proposed order which the committee should take into consideration in developing its marketing policy are the factors usually taken into account by growers and handlers in their day-to-day, as well as seasonal, evaluations of the market outlook with respect to potatoes.

In developing its marketing policy the committee should investigate and give consideration to the then current, as well as anticipated, market prices of potatoes, including prices by variety, grade, size, quality and maturity for different packs and for different types of containers, and to the volume of potatoes expected to be sold; also, to estimates of the supply of potatoes in the production area and in other producing areas by grade, size, quality and maturity; and estimated shipments from competing areas. The committee should, in addition, consider other factors which may have an influence on the market price of potatoes, such as the trend and level of consumer income.

If, for example, the committee were to anticipate a surplus of potatoes, together with depressed prices, it might adopt a policy calling for such limitations of grade, size, and quality so as to market only the best grades and sizes which would return to producers the maximum

benefits. On the other hand, if potatoes were expected to sell at high prices, returning more than parity prices to producers, a policy might be adopted calling for such minimum regulations as will be in the public interest. Also, a policy adopted during times when consumer disposable income is at low levels might differ from a policy adopted during more prosperous times.

The initial marketing policy report forwarded at the beginning of each season by the committee should be prepared and submitted to the Secretary prior to, or simultaneously with, its initial recommendations for regulations. The reports on marketing policy recommended by the committee should also be made available to producers and handlers in the production area as a means of keeping them informed.

It is essential that the committee should be able to change its marketing policy as conditions and facts may warrant. This flexibility should tend to assure that the marketing policy will be up-to-date during the marketing season. If some unforeseen condition should develop during the season, which for example affects the supply of potatoes, and the committee finds it desirable and necessary to change its marketing policy, a revised or new marketing policy report should be prepared by the committee and made available to the Secretary and to producers and handlers at the earliest possible date. The committee should give the same publicity to each revised or new policy report as is given to the initial report for a marketing season.

The Upper Peninsula Potato Committee should, as the local administrative agency under the proposed order, be authorized to recommend such grade, size, quality and maturity regulations, as well as any other regulations and amendments thereto authorized by the proposed order, as will tend to effectuate the declared policy of the act. It is necessary to the successful operation of the proposed order that the committee should have such responsibility. The Secretary should look to the committee as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions and increased growers' returns for production area potatoes. The committee should, therefore, have authority to recommend such regulations as are authorized by the proposed order whenever such regulations will, in the judgment of the committee, tend to promote more orderly marketing conditions and effectuate the declared policy of the act.

When conditions change so that the then current regulations do not appear to the committee to be carrying out the declared policy of the act, the committee should have the authority to recommend the suspension or termination of such regulations, as the situation warrants.

The proposed order authorizes the Secretary, on the basis of committee recommendations or other available information, to issue various grade, size, quality, and other appropriate regulations which are necessary for the improvement of growers' returns and for the development of more orderly marketing condi-

tions for production area potatoes. Such regulations may be issued for any or all portions of the production area, for any or all varieties of table stock or of seed potatoes, or both, during any period.

It was testified that if low grades and undesirable sizes are permitted to be marketed, such potatoes will tend to depress the prices which producers receive, not only for their poor grades and small sizes, but also for their better grades and sizes as well. Witnesses stated that in some instances the very large potatoes are as undesirable and price depressing as the small ones. Also, that U. S. No. 2 grade potatoes return to growers from 50 cents to \$1.00 less per 100 pounds than U. S. No. 1 grade potatoes and that each sack of U. S. No. 2 potatoes marketed displaces an equal quantity of U. S. No. 1 quality potatoes. Any culls marketed would, of course, return even less than U. S. No. 2 potatoes and the effect of such sales would be more price depressing.

As heretofore indicated, the quantity, quality and sizes of potatoes grown in the production area and sold or transported to markets during any period have a direct effect upon the total quantity and the composition of such supplies in the market which in turn have a direct effect upon the prices received for potatoes in the market and the prices returned to producers in the production area. Limitation of the handling of poorer grades, off-quality, and less desirable sizes and maturity of potatoes grown in the production area is a method of adjusting the total quantity of potatoes and the composition thereof which may move to market during any period, and would tend to increase prices of the more desirable grades, sizes and maturity with a corresponding increase in the returns to producers.

It was testified that flexibility of operation is necessary in order to meet the varying conditions that might arise and for this reason there should be authority for regulating the handling of particular grades, sizes, qualities, and maturities of potatoes differently for different varieties; differently for table stock and for seed; and differently for different portions of the production area, for different markets, for different packs, for different sizes and types of containers, or for any combination of the foregoing, during any period.

Supply and demand conditions as well as prices returned to growers may vary with different varieties of potatoes. For example, the supply of the Russet Burbank variety was relatively short two years ago and there was no difficulty in moving such variety at a good price, while the round white varieties were in plentiful supply and sold at relatively low prices. This situation could require a different type of regulation for each variety in order to enable producers to obtain the maximum returns. Potatoes of a variety in short supply may be sold profitably with less restrictive regulations while potatoes of a variety in abundant supply would require more restrictive grade and size regulations to bring a fair return to producers. Authority should thus be flexible in order

to permit different grade and size regulations for different varieties.

As previously indicated, seed potatoes are specifically defined so that individual or separate treatment may be accorded them under the proposed order. Only those potatoes which have been officially certified and tagged, marked, or otherwise appropriately identified under the supervision of the official seed potato certifying agency of the State, or as recognized by the Secretary, should qualify as seed potatoes. The quality requirements for seed potatoes differ from those for table stock potatoes in that freedom from disease is the most important quality factor for seed potatoes and quite often, unlike table stock potatoes, the smaller sizes bring a premium in the seed market. Seed prices are dependent to a great extent on table stock prices and they usually move in the same direction. Also, at times, seed potatoes are sold for table stock. If seed potatoes going to the table stock market are regulated and no authority exists for different regulations for seed potatoes for planting purposes it is possible that seed potatoes for planting could have to meet requirements that are not suitable for seed potatoes that are to be planted. Although the current production of seed potatoes in the production area is not large, if the need for regulation of seed potatoes for planting purposes should arise in the future, the committee should have the authority to recommend, and the Secretary to issue, suitable regulations which would necessarily differ from those recommended for table stock potatoes.

It was testified that the planting and harvesting periods may vary by several weeks from the earliest to the latest producing sections in the area, thus causing some variation in the maturity, size or quality of the potatoes at a particular time. Also, because of drought, disease, floods, hail, or other unforeseen conditions, potatoes from a certain portion of the production area may vary in quality or size from potatoes grown in other parts of the production area. For these reasons it may be desirable at times to regulate differently for different parts of the production area, and consequently, authority to do so should be provided in the proposed order.

The proposed order should also provide authority for different regulations for the handling or shipment of potatoes to different markets. Witnesses testified that such authority should be included to provide flexibility of operation in order to meet the varying conditions that might arise with respect to such markets. For example, it was testified that approximately 75 percent or more of the potatoes grown in the production area are shipped to markets outside the production area, that such shipments are usually made in car lot or truck lot quantities, and it is with respect to these shipments that grade, size and quality requirements are primarily needed. However, as previously indicated, markets within the production area are also important and shipments to such markets should also be subject to regulation. The committee may at times, especially dur-

ing harvest time, find that it is impracticable to regulate shipments to markets within the production area to the same extent as shipments to markets outside the production area. Also, market requirements may differ as to grade, size, quality, maturity, and other factors and, therefore, different regulations should be permitted for different markets. It was testified that, for example, shipments to Canada may require different grades or sizes than domestic shipments in order to supply the particular needs of that export market and at the same time to comply with Canadian import requirements. Accordingly, it is desirable and appropriate that authority should be included in the proposed order for different regulations for different markets.

The proposed order should also contain authority to prescribe different regulation for different packs. The use of such authority could assist the potato industry in the production area in its merchandising efforts to provide the most acceptable packs to enhance its reputation in the trade and thereby increase the demand for production area potatoes. It is a usual practice in this area to prepare specific packs of potatoes for market. One such common pack is referred to as U. S. No. 1, Size A, 50-pound pack. The potatoes in this pack are generally graded to minimum grade and size specifications with no maximum size limitation. Because of consumer trends and demands for small size packs or containers of potatoes of fairly uniform sizes, it may be desirable to limit the potatoes to more uniform sizes when packed in small packs of 5, 10, or 15 pounds than when packed in 50 and 100 pound packs. The authority so provided to regulate shipments of potatoes differently for different packs should enable the committee to recommend, and the Secretary to issue, regulations based on preferred demand for particular packs, including the grades, sizes, quality and maturity of the contents thereof, in the interest of maximizing returns to growers when necessary.

Small shipments of potatoes, such as are made by some farmers to local grocery stores, and convenience sales to friends and tourists, constitute a very small percentage of the total sales. However, such small sales could present real operating problems if inspection should be required on each. In some parts of the production area, where such small sales are made, inspectors may not be readily available and enforcement may be very difficult and costly. It is, therefore, desirable to provide authority for exempting such small or nuisance shipments from grade, size, or quality requirements, or from mandatory inspection, or assessments, or any combination thereof, which could otherwise become unduly burdensome on handlers and present administrative difficulties in the operation of the program. The committee should be authorized, therefore, to recommend, and the Secretary to specify, minimum quantities which should be exempt from inspection, assessments, or grade and size regulations, or any combination thereof under the proposed

order. Such authority would provide flexibility in administration and should be used in a practical manner to meet local needs and conditions. Also, minimum quantity shipments so exempted from regulations should not be of sufficient volume so as to be a detriment to the program.

The proposed order should contain authority to fix the size, capacity, weight, dimensions, or pack of the container, or containers, so as to allow the committee to eliminate any deceptive or unethical practices which may develop in the packaging or handling of potatoes in the future. If, for example, a bag is developed to contain nine pounds of potatoes but which looks like a ten pound bag and is sold in competition to ten pound bags at a lower price, such lower priced package would tend to pull down the price of the ten pound package and could thus adversely affect grower returns. The exercise of the authority to regulate containers would enable the committee to prohibit the use of any undesirable or deceptive containers. This authority, however, should not be used to close the door on experimenting with new or superior containers which may be developed.

(f) Some potatoes are of such low quality that they do not give consumer satisfaction at any time because of waste and the large amount of time consumed in preparing them. Consumers do not receive proper value for their expenditures for such low quality potatoes; and even when prices are above parity, it is not in the public interest, either of the producers, handlers or consumers to permit shipments of such poor quality. Shipments of excessively skinned potatoes also tend to disrupt general marketing conditions for the commodity and the discounted prices received for such potatoes adversely affect growers' prices. The proposed order should, therefore, authorize the establishment of such minimum standards of quality and maturity as will effectuate such orderly marketing of production area potatoes as will be in the public interest. It is also necessary that such authority should include grading and inspection requirements so that such minimum standards of quality and maturity may be determined whenever such regulations are in effect.

The proposed order authorizes the Secretary, on the basis of Committee recommendations or other available information, to issue various regulations thereunder which are necessary, among others, for the improvement of growers' returns and for the development of more orderly marketing conditions for production area potatoes. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing such regulations, including amendments or modifications thereof, as may be necessary to effectuate the declared policy of the act. Also, when he determines that any regulation does not tend to effectuate such policy, he should have the authority to suspend or terminate such regulation.

The requirement that the Secretary shall notify the committee of any regulations or any amendments, suspensions, or terminations of regulations is appropriate and necessary to enable the committee to be informed of such actions. The committee, in turn, has an obligation to give reasonable notice to handlers, by such means as it deems adequate, of such regulatory orders, amendments, suspensions, or terminations, so that the persons to be affected by such regulations or changes therein will be adequately informed and will have an opportunity to adjust their operations by the effective dates of such regulations or changes.

(g) The Secretary, upon the basis of recommendations and information submitted by the committee, or upon the basis of other available information, should be authorized to issue special regulations, or to modify, suspend, or terminate, grade, size, quality, maturity, or other applicable regulations with respect to the handling of production area potatoes, to facilitate shipments of such potatoes for purposes other than disposition in normal domestic fresh markets.

Potatoes moving to, or sold in, certain outlets, such as those specified in § 963.54 of the proposed order, are usually handled in a different manner, or such outlets usually accept different grades, sizes, qualities, maturities, packs, or containers than those required for fresh shipment to domestic retail outlets. The proposed order should provide authority to give appropriate consideration to the handling of potatoes for such outlets so that full opportunity may be taken, under provisions of this program, to increase total returns to producers.

Export requirements for potatoes differ materially on occasion from domestic market requirements with respect to grades, sizes and containers. Export markets are considered as additional outlets and potatoes exported do not usually compete with domestic shipments. Unless the regulations could be modified to meet the requirements of export markets, loss of business may occur, thereby tending to prevent the accomplishment of the declared policy of the act. Therefore, authority should be included in the proposed order to effect the appropriate modification, suspension, or termination of regulations for export shipments.

Shipments of potatoes for relief or to charitable institutions should also be given special consideration. Such shipments are intended for special outlets and are usually by way of donation to people in need. They are not considered to be in competition with shipments to normal trade channels.

Authority should also be provided in the proposed order to give special consideration to potatoes which are shipped for manufacture or conversion into specified products or by-products so that these outlets may obtain the types of potatoes they require. Potato chip manufacturing is becoming more important as an outlet for potatoes. This product requires potatoes which have been stored at higher temperatures than normal. Such storage sometimes causes excessive

sprouting and softening of the potatoes to such an extent that they may not meet the grade regulations which may be in effect. Also, potato chip manufacturers may require potatoes of a different size than required by the regulations. Potato chips, as well as other potato products presently in production, or new products which may be developed in the future, offer additional outlets for production area potatoes and should be utilized for the benefit of producers. The committee would be in a favorable position to assess the competition, if any, between such products and table stock potatoes for the fresh market. Therefore, the necessary authority should be provided to facilitate the movement of potatoes to such outlets as conditions warrant. Since potatoes shipped for canning or freezing are exempted under the act, it was testified that the committee, with the approval of the Secretary, should have authority to require that adequate safeguards be taken to assure that such shipments will not be used for other than the purpose intended.

It is a practice in some parts of the production area to feed potatoes to livestock and this use provides a salvage outlet for culls and off-grades and off-sizes. This outlet is not competitive with the fresh market and the movement of such potatoes to livestock feeders within the production area should be permitted without restrictions but under appropriate safeguards. It would not be advisable, however, to permit shipments of potatoes for livestock feed to leave the production area since it would be difficult for the committee to check on their use. Similarly, since the shipment of potatoes, including seed potatoes, for planting within the production area does not compete with commercial shipments for fresh market use, such handling should be permitted but under proper safeguards. Also, the shipment of seed potatoes beyond the production area should be permitted under proper safeguards to prevent the diversion of such shipments from seed potato channels.

The committee should be authorized to recommend special treatment, through regulations, or modification, suspension, or termination of regulations, applicable to shipments for other purposes or products which may be specified by the committee with the approval of the Secretary. The purpose for such treatment should be to increase outlets for potatoes and also growers' returns.

The authority for issuing special regulations, or modifying, suspending, or terminating regulations with respect to shipments for special purposes, should be accompanied by the additional administrative authority for the committee to recommend, and the Secretary to prescribe, adequate safeguards to prevent shipments for such purposes from entering fresh market channels contrary to the provisions of such regulations.

Such safeguards should include such limitations, or appropriate qualifications on shipments, as might be necessary and incidental to the proper and efficient administration of the proposed order. Such safeguards could include, among others, mandatory inspection require-

ments so that the committee may have an accurate record of the grade, size, quality and maturity of potatoes shipped to special outlets, applications to make such special shipments, reports by handlers on the number of such shipments and the quantity of potatoes shipped, also assurances by the purchasers that the potatoes would be used for the purpose designated.

In order to maintain appropriate identification of potatoes shipped to special outlets, the safeguards may provide for the issuance of Certificates of Privilege to handlers of such potatoes and, in addition, require that such handlers obtain such certificates on all shipments to such outlets. Certificates of Privilege issued by the committee could serve as an indication of the authority for the handlers to make such shipments and as a means of identifying specific shipments. Such certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary on the basis of committee recommendations, or other available information, so that the issuance of such certificates might be handled in an orderly and efficient manner which can be made known to all handlers.

The committee should be authorized to exercise the authority necessary and incidental to the proper administration of the proposed order, which should include the authority to rescind or deny such certificates. Such action, however, should be based on evidence satisfactory to it that a handler to whom a Certificate of Privilege had been issued, handled potatoes covered thereby contrary to the provisions of such certificate. Applications for Certificates of Privilege should be handled promptly. Notice from the committee with respect to rescinding or denying a Certificate of Privilege should be given promptly to the applicant. Likewise, any appeal from committee action with respect to an application or the denial of a Certificate of Privilege should be handled promptly. If the committee should rescind or deny a Certificate of Privilege, such action should be in terms of a specified period of time. Applicants affected by the denial of such a certificate, or applicants affected by the rescinding of such a certificate, should have the right of appeal to the committee for a reconsideration. They should, of course, also have the right to request the Secretary to review such action and such right is hereby recognized and confirmed.

Handlers should transfer Certificates of Privilege with the potatoes covered by such certificates so that all subsequent handlers of such potatoes may know that such potatoes have met the provisions of the program. When Certificates of Privilege accompany potatoes, handlers can then quickly determine whether the potatoes meet the requirements of the proposed program.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificates of Privilege issued by the committee in order that the Secretary may retain all rights necessary to carry out the declared policy of the act. The Secretary

should give prompt notice to the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The committee should maintain records relevant to safeguards and to Certificates of Privilege and should submit reports thereon to the Secretary, when requested, in order to supply pertinent information requisite for him to discharge his duties under the act and the proposed order.

(h) Inspection of potatoes grown in the production area by the Federal-State Inspection Service is a common and usual practice for the purpose of determining officially the grade, size and quality of such potatoes. The Federal-State Inspection Service has operated in the Upper Peninsula of Michigan for many years. Although there has been no compulsory inspection on potato shipments in the State of Michigan, approximately 85 percent of all potato shipments shipped out of Upper Peninsula of Michigan have been inspected for grade and size by the Federal-State Inspection Service at the request of the shippers.

Potato producers and handlers in the production area are well acquainted with the inspection service offered by the Federal and Federal-State Inspection Services on shipments of potatoes. Such inspection service is usually available throughout the entire production area upon reasonable notice.

Provisions should be made for mandatory inspection by the Federal or Federal-State Inspection Service of all shipments of potatoes grown in the production area so as to insure compliance under the program. The requirement that no handler shall ship potatoes unless such shipments are inspected by the authorized inspection service is reasonable and necessary for proper administration of the program. Such inspection requirements should apply to all potatoes shipped under regulations issued under the proposed order except when relieved from inspection pursuant to § 963.53 or § 963.54 thereof. Inspection of shipments subject to regulation would furnish the shipper thereof as well as subsequent handlers, the buyer, the committee, the Secretary, and other interested parties with an appropriate means of determining whether such shipments of potatoes comply with the applicable requirements of grade, size, quality, maturity and other regulations which may then be in effect under the proposed order. Thus, there would always be an authoritative means of establishing the grade, size, quality and maturity of each shipment of potatoes so that the administration of the proposed order will be efficient and effective.

The responsibility for obtaining inspection should fall on each person who handles potatoes so that each shipment of such potatoes will be identified and certified with respect to whether it complies with the grade, size, quality, maturity, or other requirements of the applicable regulations. Each handler must bear responsibility for determining that each of his shipments is so in-

spected. Such requirement is necessary so that the committee can obtain evidence in the form of inspection certificates, which it needs to carry out its responsibility for determining whether shipments are inspected and are in conformity with the requirements of the proposed order and regulations issued pursuant thereto. Handlers, too, would know whether their potato shipments are in compliance.

Whenever potatoes that have been inspected and certified are dumped from the containers in which they were inspected and certified, such potatoes lose their identity insofar as the inspection certificate is concerned. If any of such potatoes should thereafter be repacked, regraded, or resorted, such repacked, regraded, or resorted potatoes would have a new identity, and, in order to comply with the regulations under the proposed order, such repacked, regraded, or resorted potatoes should be reinspected, the same as required for any other uninspected potatoes. The proposed order should provide that any repacked, regraded, or resorted potatoes shall not be handled unless they are inspected and certified, except when exempted by the Secretary. Such inspection and certification of repacked, regraded, or resorted potatoes is necessary so that the shipper thereof, as well as subsequent handlers, the committee, and other interested parties, may know that such shipments comply with the regulations in effect and applicable thereto.

The committee should be authorized to recommend rules and regulations which, with the approval of the Secretary, will modify inspection requirements on repacked, regraded, or resorted potatoes. The regrading, resorting, or repacking of potatoes is not a common practice in the production area because the bulk of the packing operations is done on the farm. However, it was testified that a few wholesalers in the production area purchase inspected potatoes in 50 pound or 100 pound bags which they wash, regrade, and repackage into consumer size packages for sale to limited outlets. These small packages are well identified with the wholesaler's label and are usually repacked in small quantities so as to supply the local retail stores with a superior fresh pack daily. Reinspection on each of such repacked small lots of potatoes may impose an undue hardship on such dealers and on the inspection service. It may be desirable and practical to exempt such repacked potatoes, under proper safeguards, from the requirements of reinspection under rules and regulations recommended by the committee and approved by the Secretary by permitting minimum quantities to be reworked and handled without the additional inspection or by use of other acceptable safeguards. Therefore, the proposed order should authorize the committee to recommend such rules and regulations which would modify, suspend, or terminate inspection requirements on repacked, regraded, or resorted lots of potatoes.

The committee should be authorized to recommend and the Secretary to require that lots of potatoes inspected and

certified shall be identified by appropriate seals, stamps, or tags to be affixed to each container thereof by the handlers thereof, under the direction or supervision of the Federal, or Federal-State, Inspection Service or the committee. Such identification requirement could result in more efficient and effective administration of the program with respect to warehouse lot inspections because compliance problems would be minimized. When potatoes that have been identified and certified as a single lot are identified by such seals, stamps, or tags prior to any handling, it may not be necessary in certain instances to require separate inspection on loads or parts of loads of such potatoes. The committee should be able, as experience in operation under this program is acquired, to indicate the instances when the identification requirement would facilitate handling of such potatoes in quantities smaller than those in which originally inspected. The proposed order therefore should contain such authority.

In view of the perishable nature of potatoes and their susceptibility to fairly rapid deterioration under certain conditions, the committee, with the approval of the Secretary, should be authorized to fix the length of time inspection certificates may be valid insofar as the proposed order is concerned. This will assure, to the extent practical, that an inspection certificate properly reflects the grade, size, and quality of a particular lot of inspected potatoes at the time it is handled.

Truckers and other carriers, as well as the committee, can be supplied by the inspection service with copies of inspection certificates or evidence thereof to accompany each lot of potatoes. The committee should be authorized to recommend, and the Secretary to issue regulations, requiring handlers transporting potatoes subject to regulations under the proposed order, or causing their transportation, to accompany such potatoes with a copy of such inspection certificate or evidence thereof which may be required to be surrendered to such authority or agency as may be designated by the Secretary upon the committee's recommendation. The presence of a valid inspection certificate or evidence thereof will simplify the determination of the inspection of such potatoes and thereby tend to reduce the expense of program enforcement and facilitate checking compliance.

Copies of inspection certificates issued pursuant to the requirements of the proposed order should be supplied to the committee by the inspection service promptly so that the committee may properly discharge its administrative responsibilities under the program.

(i) Certain hazards, which may at times be localized, such as floods, drought, hail, or tornadoes, may result in potatoes which have hollow heart, growth cracks, secondary growth, or in jumbo or small potatoes, and other conditions which are beyond the control of the growers; and other conditions, such as blight, frost damage, and dry rot over which persons who store potatoes have no control, may not be evident until after

potatoes have been put in storage. Farmers are close to these problems and are aware of the conditions that are beyond the control of handlers and growers; and hence the committee, composed of producers and handlers, can properly advise with respect to such facts and conditions and the extent to which relief, if any, should be afforded such persons, in the light of the affected areas involved.

These hazards are beyond the control and reasonable expectation of the growers of such potatoes and the handlers who may buy and store them. Because of these circumstances, and to provide equity among producers and handlers insofar as any regulations under the proposed order may be concerned, the committee should be given authority to issue exemption certificates, in accordance with rules and procedures approved by the Secretary, to permit qualified applicants to handle their equitable proportion of all shipments from their respective affected regions, as described in such rules and procedures. The committee by reason of its knowledge of the conditions and problems applicable to the production and storing of potatoes in the various producing regions of the production area should be well qualified to judge each applicant's case in a fair and equitable manner, in the light of the information which the applicant may furnish to substantiate his request for exemption, and to fix the quantity of exempted potatoes which each such applicant may ship. It is reasonable to require all such applicants for exemption to furnish the committee with satisfactory evidence to support their applications.

The provisions contained in the proposed order relevant to the procedure to be followed in issuing exemption certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary are reasonable and necessary to the orderly and equitable operation of the program. They should, therefore, be incorporated in the proposed order.

The authority of the Secretary to modify, change, alter, or rescind any rules or procedures established with respect to the granting of exemptions, and exemptions granted pursuant thereto should be retained by the Secretary. This is desirable to guard against inequities in the granting of exemptions and to preclude the issuance of exemption certificates in unjustifiable cases.

(j) The committee should have authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information which may be necessary to perform such agency's functions under the proposed order. It is difficult to anticipate every type of report or information which the committee might need in administering the program, but it should have the authority, subject to the approval of the Secretary, to request, when needed, reports and other information of the type set forth in the proposed order. Reports requested should be only those considered necessary for the operation of the committee in carrying out the

terms and conditions of the proposed order. Reports furnished to the committee should be submitted in such manner and at such times as may be designated by the committee. Reporting procedures should accord with the needs and requirements of the committee in administering the proposed order, and changing conditions may warrant changes in the forms and methods of reporting to the committee. The Secretary should retain the right to approve, modify, change, or rescind any committee requests for information.

Any reports and records submitted for committee use by individual handlers should remain under protective classification and be disclosed to none other than persons authorized by the Secretary. Any reported information released to the industry should be on a composite basis and no such release of information should disclose either the identity of handlers or their operations. This will assure that the information contained in the reports which may identify such handler, or adversely affect the competitive position of a reporting handler in relation to other handlers, will not be disclosed.

Since it is possible that a question could arise with respect to the verification of the information contained in the reports submitted under the program, handlers should be required to maintain complete records on their receipts, handling, and dispositions of potatoes for not less than two succeeding years. Evidence shows that handlers usually keep such records for their own business operations for periods of at least two years and no hardship would be imposed by requirements of this type under the proposed order.

(k) Except as provided in the proposed order, no handler should be permitted to handle potatoes, the handling of which is prohibited pursuant to the proposed order; and no handler should be permitted to handle potatoes except in conformity with the proposed order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one or more handlers, although possibly of small impact individually on the industry measured by the proportion of potatoes handled by the respective handler, could be demoralizing to other handlers and would tend to impair operation of the program.

(1) The provisions of §§ 963.80 through 963.92 as published in the FEDERAL REGISTER of July 17, 1957 (22 F. R. 5634) are common to marketing agreements and orders now operating. Each of these sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the proposed order. These provisions are incidental to and not inconsistent with, sections 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the proposed order and to effectuate the declared policy of the act. The substance of such provisions should, therefore, be included in the proposed order.

Evidence presented at the hearing indicates that in the event of termination of the program such termination should

be announced on or before April 30 of the calendar year so as to afford all persons subject to the proposed order reasonable time to prepare for operations for the ensuing crop year. Accordingly, the proposed order should so provide.

General findings. Upon the basis of evidence introduced at the hearing and record thereof it is found that:

(1) The marketing agreement and order hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to potatoes produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish as prices to producers thereof parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such potatoes above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity and such grading and inspection requirements as may be incidental thereto as will tend to effectuate such orderly marketing of such potatoes as will be in the public interest;

(2) The said marketing agreement and order authorize regulation of the handling of Irish potatoes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several marketing agreements and orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the production area; and

(5) All handling of potatoes grown in the production area as defined in said marketing agreement and order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Irish Potatoes Grown in the Upper Peninsula of Michigan" and "Order Regulating the Handling of Irish Potatoes Grown in the Upper Pen-

insula of Michigan" which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. The aforesaid marketing agreement and aforesaid order shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement are identical with those contained in the annexed order, which shall be published with this decision.

Dated: January 30, 1958.

[SEAL] DON PAARLBERG,
Assistant Secretary.

Order¹ Regulating the Handling of Irish Potatoes Grown in the Upper Peninsula of Michigan

Sec. 963.0 Findings and determinations.

DEFINITIONS

- 963.1 Secretary.
- 963.2 Act.
- 963.3 Person.
- 963.4 Production area.
- 963.5 Potatoes.
- 963.6 Varieties.
- 963.7 Seed potatoes.
- 963.8 Table stock potatoes.
- 963.9 Handle.
- 963.10 Handler.
- 963.11 Producer.
- 963.12 Grading.
- 963.13 Grade and size.
- 963.14 Pack.
- 963.15 Container.
- 963.16 Committee.
- 963.17 District.
- 963.18 Fiscal period.
- 963.19 Export.

COMMITTEE

- 963.25 Establishment and membership.
- 963.26 Selection.
- 963.27 Term of office.
- 963.28 Procedure.
- 963.29 Powers.
- 963.30 Duties.
- 963.31 Members' expenses and compensation.
- 963.32 Districts.
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- 963.34 Vacancies.

EXPENSES AND ASSESSMENTS

- 963.40 Budget.
- 963.41 Expenses.
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RESEARCH AND DEVELOPMENT

- 963.47 Research and development.

REGULATION

- 963.50 Marketing policy.
- 963.51 Recommendations for regulations.
- 963.52 Issuance of regulations.
- 963.53 Minimum quantities.
- 963.54 Handling for specified purposes.
- 963.55 Safeguards.

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

INSPECTION

- Sec. 963.60 Inspection and certification.

EXEMPTIONS

- 963.65 Rules and procedures.
- 963.66 Granting exemptions.
- 963.67 Investigation.
- 963.68 Appeal.

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- 963.70 Reports.

COMPLIANCE

- 963.75 Compliance.

MISCELLANEOUS PROVISIONS

- 963.80 Amendments.
- 963.81 Right of the Secretary.
- 963.82 Effective time.
- 963.83 Termination.
- 963.84 Proceedings after termination, or when suspended.
- 963.85 Effect of termination or amendment.
- 963.86 Agents.
- 963.87 Personal liability.
- 963.88 Duration of immunities.
- 963.89 Separability.

§ 963.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Marquette, Michigan, August 5-6, 1957, upon a proposed marketing agreement and a proposed marketing order regulating the handling of Irish potatoes grown in the Upper Peninsula of Michigan. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) This order, and all the terms and conditions hereof, will tend to effectuate the declared policy of the act with respect to Irish potatoes grown in the production area defined herein as comprising the Counties of Alger, Baraga, Chipewewa, Delta, Dickinson, Keweenaw, Gogebic, Houghton, Iron, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft, all in the Upper Peninsula of Michigan, (i) by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices, (ii) and by protecting the interest of the consumer by approaching the level of prices which it is declared to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by authorizing no action which has for its purpose the maintenance of prices to producers of such potatoes above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly mar-

keting of such potatoes as will be in the public interest;

(2) This order regulates the handling of Irish potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) This order is limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) This order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of Irish potatoes grown in the production area; and

(5) All handling of Irish potatoes as defined in this order is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Order relative to handling. It is therefore, ordered that on and after the effective time hereof, the handling of Irish potatoes grown in the production area as defined herein shall be in conformity to and in compliance with the terms and conditions of this order; and such terms and conditions are as follows:

DEFINITIONS

§ 963.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 963.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. '31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

§ 963.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 963.4 *Production area.* "Production area" means all territory within the Counties of Alger, Baraga, Chippewa, Delta, Dickinson, Keweenaw, Gogebic, Houghton, Iron, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft, all in the Upper Peninsula in Michigan.

§ 963.5 *Potatoes.* "Potatoes" means all varieties of Irish potatoes grown within the production area.

§ 963.6 *Varieties.* "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 963.7 *Seed potatoes.* "Seed potatoes" or "seed" means all potatoes offi-

cially certified and tagged, marked, or otherwise appropriately identified under the supervision of the official seed potato certifying agency of the State of Michigan or other seed certification agencies which the Secretary may recognize.

§ 963.8 *Table stock potatoes.* "Table stock potatoes" or "table stock" means and includes all potatoes not included within the definition of "seed potatoes."

§ 963.9 *Handle.* "Handle" is synonymous with "ship" and means to sell or transport potatoes, or cause potatoes to be sold or transported, within the production area or between the production area and any point outside thereof. This definition of "handle" shall not be applicable to the transportation within the production area of ungraded potatoes for grading or storing therein.

§ 963.10 *Handler.* "Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes.

§ 963.11 *Producer.* "Producer" means any person engaged in a proprietary capacity in the production of potatoes for market.

§ 963.12 *Grading.* "Grading" is synonymous with "preparing for market" and means the sorting or separating of potatoes into grades and sizes for market purposes.

• § 963.13 *Grade and size.* "Grade" means any of the officially established grades of potatoes, and "size" means any of the officially established sizes of potatoes, as defined and set forth in:

(a) The United States Standards for Potatoes issued by the United States Department of Agriculture (§§ 51.1540 to 51.1559 of this title), or amendments thereto, or modifications thereof, or variation based thereon; or

(b) United States Consumer Standards for Potatoes as issued by the United States Department of Agriculture (§§ 51.1575 to 51.1587 of this title), or amendments thereto, or modifications thereof, or variations based thereon.

§ 963.14 *Pack.* "Pack" means a quantity of potatoes in any type of container and which falls within specific weight limits or within specific grade limits, or both, recommended by the committee and approved by the Secretary.

§ 963.15 *Container.* "Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation or sale of potatoes.

§ 963.16 *Committee.* "Committee" means the Upper Peninsula Potato Committee established pursuant to § 963.25.

§ 963.17 *District.* "District" means each of the geographic divisions of the production area initially established or as re-established pursuant to § 963.32.

§ 963.18 *Fiscal period.* "Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by the committee.

§ 963.19 *Export.* "Export" means shipment of potatoes beyond the boundaries of continental United States.

COMMITTEE

§ 963.25 *Establishment and membership.* (a) The Upper Peninsula Potato Committee consisting of nine members, of whom six shall be producers and three shall be handlers, is hereby established.

(b) Each person selected as a committee member or alternate shall be a producer or a handler, as the case may be, or an officer or employee thereof, in the district for which selected and each such person shall be a resident of such district.

(c) For each member of the committee there shall be an alternate who shall have the same qualifications as the member. The alternate member shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for the unexpired term of said member is selected and has qualified.

§ 963.26 *Selection.* (a) The Secretary shall select from eligible persons in each district two producer members and their alternates, also one handler member and his alternate.

(b) Any person selected by the Secretary as a committee member or as an alternate shall file a written acceptance with the Secretary within ten days after being notified of such selection.

§ 963.27 *Term of office.* The term of office of committee members and alternates shall begin on July 1 and end on June 30.

(a) The term of office of producer members and alternates shall be for three years. The term of office of the initial producer members and alternates of the committee shall be so determined by the Secretary that one-third shall be for a term ending June 30, 1959, one-third for a term ending on the following June 30, and one-third for a term ending on the next following June 30.

(b) The term of office of handler members and alternates shall be for one year. The term of office of the initial handler members and alternates of the committee shall be for the term ending on June 30, 1959.

(c) No producer member and no handler member shall serve for more than three consecutive terms.

(d) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 963.28 *Procedure.* (a) Six members of the committee shall be necessary to constitute a quorum and six concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication and any vote

cast at such meeting shall be confirmed promptly in writing. When any assembled meeting is held, all votes shall be cast in person.

§ 963.29 *Powers.* The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 963.30 *Duties.* The committee shall have the following duties:

(a) Meet and organize as soon as practical after the beginning of each term of office, select from among its membership a chairman and such other officers as may be necessary, and subcommittees, and adopt such rules and procedures for the conduct of its business as it may deem advisable.

(b) Act as intermediary between the Secretary and any producer or handler.

(c) Appoint such employees, agents, and representatives as it may deem necessary and determine the salaries and define the duties of each.

(d) Keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee, and such minutes, books and records shall be subject to examination at any time by the Secretary or his authorized agent or representative.

(e) Furnish the Secretary promptly with copies of the minutes of each committee meeting, an annual report of the committee's operations for the then ending fiscal period, and such other reports or information as may be requested by the Secretary.

(f) Consult, cooperate, and exchange information with other marketing agreement or order committees and other agencies or individuals in connection with proper committee activities and objectives.

(g) Take any proper action necessary to carry out the provisions of this subpart.

§ 963.31 *Members' expenses and compensation.* Committee members and alternate members may be reimbursed for reasonable expenses necessarily incurred in the performance of their duties and in the exercise of their powers under this subpart; and in addition, after the first year of operation, such persons may receive compensation at a rate to be determined by the committee and approved by the Secretary, not to exceed \$10.00 per day or portion thereof, spent in attending to committee business.

§ 963.32 *Districts.* (a) For the purpose of selecting committee members and alternates the following districts of the production area, each comprised of counties in the Upper Peninsula of Michigan, are hereby initially established:

District No. 1: Alger, Delta, Schoolcraft, Luce, Mackinac and Chippewa Counties;

District No. 2: Marquette, Iron, Dickinson and Menominee Counties;

District No. 3: Houghton, Baraga, Keweenaw, Ontonagon and Gogebic Counties.

(b) The Secretary, upon recommendation of the committee, may reestablish districts within the production area and may reapportion committee membership among the various districts: *Provided*, That there shall be no change in the total number of committee members or in the total number of districts. In recommending any such changes in districts or representation, the committee shall give consideration to (1) the relative importance of new producing sections; (2) changes in the relative position of existing districts with respect to production; (3) the geographic location of producing sections as they would affect the efficiency of administering this part; and (4) other relevant factors.

§ 963.33 *Nominations.* The Secretary may select the members of the Upper Peninsula Potato Committee and their respective alternates from nominations which may be made in the following manner, or from other eligible persons:

(a) The committee shall hold or cause to be held prior to May 1 of each year, after the effective date of this subpart, a meeting or meetings of producers and handlers, respectively, in each of the districts designated in § 963.32 in which the term of office of committee members, and their respective alternates, will commence the following July 1;

(b) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(c) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member to serve on the committee during the term beginning on the following July 1;

(d) Nominations for committee members and alternate members shall be supplied to the Secretary, in such manner and form as he may prescribe, not later than May 31 of each year;

(e) Only producers may participate in designating nominees for producer committee members and their alternates and only handlers may participate in designating nominees for handler committee members and their alternates;

(f) Each person who is both a handler and a producer may vote either as a handler or as a producer and may elect the group in which he votes; and

(g) Regardless of the number of districts in which a person handles or produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates. In the event a person is engaged in handling or producing potatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees. An eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

(h) If nominations are not made within the time and in the manner speci-

fied by the Secretary pursuant to this section, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation provided for in this part.

§ 963.34 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in § 963.33, or from previously unselected nominees on the current nominee list from the district involved or from other eligible persons. If the names of nominees to fill any vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in this part.

EXPENSES AND ASSESSMENTS

§ 963.40 *Budget.* At the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare a budget of expenses for the administration of this part. The committee may recommend to the Secretary a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget promptly to the Secretary with an accompanying report showing the basis for its calculations.

§ 963.41 *Expenses.* The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part. The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

§ 963.42 *Assessments.* (a) Handlers shall share expenses on the basis of each fiscal period. Each handler who first handles potatoes shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes handled by him as the first handler thereof during a fiscal period and the total quantity of potatoes handled by all handlers as first handlers thereof during such fiscal period.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations or other available information. Such rates may be applied equitably to each pack or unit.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all potatoes which were handled by the first handlers thereof during such fiscal period.

§ 963.43 *Refunds and reserves.* At the end of each fiscal period funds arising from the excess of assessments collected over expenses shall be accounted for as follows:

(a) Each handler entitled to a proportionate refund of such excess assessments shall be credited with such refund against his operations of the following fiscal period unless he demands payment thereof, in which event such proportionate refund shall be paid to him as soon as practicable; or

(b) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for committee operations during such period may be carried over into following periods as a reserve. Such reserve may be established at an amount not to exceed approximately one fiscal period's operating expenses; and such reserve may be used to cover the expenses incurred for the maintenance and functioning of the committee, at the beginning of a fiscal period, during any fiscal period when there is a crop failure, or to cover the necessary expenses of liquidation in the event of termination of this part.

(c) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

§ 963.44 *Fiscal reports.* The books of the committee shall be audited by a competent accountant at least once each fiscal period and at such other times as the committee may deem necessary or as the Secretary may request. A copy of each audit report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers.

RESEARCH AND DEVELOPMENT

§ 963.47 *Research and development.* The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes. The expenses of such projects shall be paid from funds collected pursuant to § 963.42.

REGULATION

§ 963.50 *Marketing policy*—(a) *Preparation.* Prior to each marketing season

the committee shall consider and prepare a proposed policy for the marketing of potatoes. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations the committee shall give appropriate consideration to the following:

(1) Market prices for potatoes, including prices by grade, size, quality, and maturity in different packs, or any other shipping units;

(2) Supply of potatoes by grade, size, quality, and maturity in the production area and in other potato producing areas;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for potatoes;

(5) Orderly marketing of potatoes as will be in the public interest; and

(6) Other relevant factors.

(b) *Reports.* (1) The committee shall submit a report to the Secretary setting forth the aforesaid marketing policy and it shall notify producers and handlers of the contents of such report.

(2) In the event it becomes advisable to shift from such marketing policy because of changed supply and demand conditions, the committee shall prepare a revised or new marketing policy in accordance with the manner previously outlined. The committee shall submit a report thereon to the Secretary and notify producers and handlers of the contents of such report on the revised or new marketing policy.

§ 963.51 *Recommendations for regulations.* The committee shall recommend to the Secretary grade, size, quality, and maturity, and other appropriate regulations, or amendments thereto, or modifications thereof, whenever it finds that such regulations as provided in § 963.52 will tend to effectuate the declared policy of the act. The committee also may recommend modification, suspension, or termination of any regulation, or amendments thereto, in order to facilitate the handling of potatoes, for the purposes authorized in § 963.54. The committee may also recommend amendment, termination, or suspension of any regulation issued under this part.

§ 963.52 *Issuance of regulations.* (a) The Secretary shall limit the shipment of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitation may:

(1) Regulate in any or all portions of the production area, the handling of particular grades, sizes, qualities or maturity of any or all varieties of table stock or of seed potatoes, or both, during any period;

(2) Regulate the handling of particular grades, sizes, qualities, or maturities of potatoes differently, for different varieties, for table stock, for seed, for different portions of the production area, for different markets, for different packs, for different sizes and types of containers, or for any combination of the foregoing, during any period;

(3) Fix, through regulations issued pursuant to this part, the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of potatoes, or both;

(4) Establish in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) The Secretary may amend or modify any regulations issued under this subpart whenever he finds that such amendment or modification would tend to effectuate the declared policy of the act. The Secretary may also suspend or terminate any regulation whenever he finds that such regulation obstructs or no longer tends to effectuate the declared policy of the act.

(c) The Secretary shall notify the committee of the issuance of any such regulation, amendment, modification, suspension, or termination and the committee shall give reasonable notice thereof to handlers.

§ 963.53 *Minimum quantities.* The committee, with the approval of the Secretary, may establish minimum quantities below which handling will be free from requirements in effect pursuant to §§ 963.42, 963.52, 963.54, or 963.60, or any combination thereof.

§ 963.54 *Handling for specified purposes.* (a) Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary may issue special regulations, or modify, suspend, or terminate requirements in effect pursuant to §§ 963.42, 963.52, 963.60, or any combination thereof, in order to facilitate the handling of potatoes for the following purposes whenever he finds that to do so will tend to effectuate the declared policy of the act:

(1) Shipments of potatoes for export;

(2) Shipments of potatoes for relief or to charitable institutions;

(3) Shipments of potatoes for manufacture into specified products or by-products;

(4) Shipments of potatoes for livestock feed within the production area;

(5) Shipments of potatoes for planting within the production area; and

(6) Shipments of potatoes for other specified purposes.

(b) Whenever the handling of seed potatoes is not subject to the same regulations as is the handling of table stock potatoes, in effect pursuant to §§ 963.42, 963.52, and 963.60, the committee, with the approval of the Secretary, may prescribe adequate safeguards, pursuant to § 963.55, to prevent diversion of such shipments from seed potato channels.

§ 963.55 *Safeguards.* (a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent potatoes shipped pursuant to § 963.54 from entering channels of trade for other than the specific purpose authorized therefor.

(b) The committee, with the approval of the Secretary, may also prescribe rules and regulations governing the issuance, and the contents, of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Such

safeguards may include requirements that:

(1) Handlers shall first file applications with the committee to ship such potatoes;

(2) Handlers shall obtain inspection provided by § 963.60, or pay the pro rata share of expenses provided by § 963.42, or both, in connection with such potatoes; and

(3) Handlers shall obtain Certificates of Privilege from the committee prior to effecting the particular shipments.

(c) The committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that potatoes shipped by him for the purposes stated in the Certificate of Privilege were handled contrary to the provisions of this part.

(d) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(e) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes handled under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 963.60 *Inspection and certification.*

(a) During any period in which the handling of potatoes is regulated pursuant to this subpart, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or Federal-State Inspection Service, and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to this section or § 963.53 or § 963.54 or both.

(b) Regrading, resorting, or repacking any lot of potatoes shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall handle potatoes after they have been regraded, resorted, repacked, or in any way further prepared for market, unless such potatoes are inspected by an authorized representative of the Federal or Federal-State Inspection Service: *Provided*, That such inspection requirements on regraded, resorted, or repacked potatoes may be modified, suspended, or terminated under rules and regulations recommended by the committee and approved by the Secretary.

(c) Upon recommendation of the committee, and approval of the Secretary, potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of the Federal or Federal-State inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the

committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or such evidence thereof as may be issued by the inspection service, which shall be surrendered to such authority as may be designated.

EXEMPTIONS

§ 963.65 *Rules and procedures.* The committee may adopt, with approval of the Secretary, the rules and procedures for handling exemptions. Such rules and procedures shall provide for processing applications for exemptions, for issuing certificates of exemption, for committee determinations with respect to areas and averages (as required by § 963.66), and for such other procedures as may be necessary to carry out the provisions in this section and § 963.66.

§ 963.66 *Granting exemptions.* (a) The committee shall make determinations in connection with, and issue, certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee:

(1) That by reason of a regulation issued pursuant to § 963.52 he will be prevented from shipping or having shipped as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate production area during the current season; and

(2) That the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to ship or have shipped the potatoes described thereon and evidence of such certificate shall be made available to subsequent handlers of such potatoes.

(b) The committee shall make determinations in connection with, and issue, certificates of exemption to any handler who applies for such exemption and furnishes adequate evidence to the committee:

(1) That by reason of a regulation issued pursuant to § 963.52 he will be prevented from handling as large a proportion of his storage holdings of ungraded potatoes, acquired during or immediately following the digging season, as the average proportion of ungraded storage holdings handled by all handlers in said applicant's immediate shipping area during the season; and

(2) That the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate

shall permit the handler to handle the potatoes described thereon and evidence of such certificate shall be made available to subsequent handlers of such potatoes.

§ 963.67 *Investigation.* The committee shall be permitted at any time to make a thorough investigation of any applicant's claim pertaining to exemptions.

§ 963.68 *Appeal.* If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. The appeal must be taken promptly after such determination by the committee. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a determination concerning the application, which determination shall be final. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

REPORTS

§ 963.70 *Reports.* Upon the request of the committee, made with approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, reports and other information as may be necessary for the committee to perform its duties under this part. In this connection:

(a) Such reports may include, but are not necessarily limited to, the following:

(1) The quantities of potatoes received and disposed of by types of outlets during specific periods;

(2) Sales records including dates, car or truck numbers, and inspection certificate numbers;

(3) Record of shipments handled under exemption certificates including identification numbers of such certificates;

(4) Record of all potatoes handled pursuant to §§ 963.53 and 963.54 including Certificate of Privilege and inspection certificate numbers, if any.

(b) All such reports shall be held under appropriate protective classification in custody by the committee, or duly authorized individuals or agencies thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers, or identify such handler, will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the potatoes received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

COMPLIANCE

§ 963.75 *Compliance.* No handler shall handle potatoes except in conformance with the provisions of this subpart and the rules and regulations issued thereunder.

MISCELLANEOUS PROVISIONS

§ 963.80 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ 963.81 *Right of the Secretary.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States under the act or otherwise. The members of the committee (including successors and alternates), and any agent or employee of the committee, shall be subject to removal by the Secretary at any time. Each and every act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same. Upon such disapproval, the disapproved action shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 963.82 *Effective time.* The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ 963.83 *Termination.* (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production of potatoes for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced on or before April 30 of the then current fiscal period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 963.84 *Proceedings after termination, or when suspended.* (a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as joint trustees for the purpose of settling the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds

unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees. The said trustees shall continue in such capacity until discharged by the Secretary and shall proceed pursuant to directions of the Secretary's liquidation order.

(b) During any period of suspension of this subpart, or during any period or periods when regulations thereunder are not in effect, the committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as trustee or trustees for holding records, funds, or any other committee property. If the Secretary determines such action to be appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

(c) Any person to whom funds, property, claims, or records have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 963.85 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or

(b) Release or extinguish any violation of this subpart or of any regulations issued under this subpart, or

(c) Affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 963.86 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the United States, or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 963.87 *Personal liability.* (a) No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct, or gross negligence.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member or alternate of the committee he shall account for all receipts, disbursements, funds, and property (including but not being limited to books

and other records) pertaining to such committee's activities for which he is responsible and deliver all such property and funds in his hands to such successor, agency, or person as may be designated by the Secretary, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the designated successor, agency, or person the right to all such property and funds and all claims vested in such member or alternate.

§ 963.88 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 963.89 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

Order Directing That a Referendum Be Conducted Among Producers, and Designating Agents To Conduct Such Referendum; Determination of Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), it is hereby directed that a referendum be conducted among producers who, during the period January 1, 1957, to December 31, 1957, inclusive (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged within the production area comprising the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Keweenaw, Gogebic, Houghton, Iron, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft of Michigan (hereinafter referred to as the "Upper Peninsula of Michigan") in the production of Irish potatoes for market, to determine whether such producers approve or favor the issuance of an order regulating the handling of Irish potatoes grown therein; and said order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection With Marketing Orders (Except Those Applicable to Milk and Its Products) To Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F. R. 5176).

The Chief of the Vegetable Branch, and R. L. Powers and F. N. Andary of the Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to conduct said referendum jointly or severally.

Copies of the text of the aforesaid annexed order may be examined in the office of the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington

25, D. C., and at those places within the Upper Peninsula of Michigan announced by the referendum agents.

Ballots to be cast in the referendum and copies of the text of said order may be obtained from any referendum agent and any appointee hereunder.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047)

[F. R. Doc. 58-812; Filed, Feb. 3, 1958; 8:47 a. m.]

[7 CFR Part 1001]

LIMES GROWN IN FLORIDA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO CONTAINER AND PACK

Notice is hereby given that the Department is giving consideration to the proposals, hereinafter set forth, submitted by the Florida Lime Administrative Committee, established pursuant to the amended marketing agreement and Order No. 101, as amended (7 CFR Part 1001; 22 F. R. 2526), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

Consideration will be given to any data, views, or arguments pertaining to the said proposals, which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., no later than February 10, 1958.

The proposals are that the Secretary limit the handling of limes, grown in the State of Florida, except the area west of the Suwannee River, as follows:

(1) Prohibit, on and after June 1, 1958, the handling of limes in containers with inside dimensions of 11½ by 7½ by 5 inches;

(2) Prohibit, on and after March 1, 1958, the handling of any container of limes unless such limes are packed in accordance with the requirements of standard pack, as defined in the U. S. Standards for Persian (Tahiti) limes (§§ 51.1000-51.1016; 22 F. R. 3405); and

(3) Prohibit, on and after March 1, 1958, the handling of any container of limes unless such container is marked so as to show the grade of the limes therein: *Provided*, That, in lieu of such marking requirement, any handler may affix to the container a label, brand, or trademark, registered with the Florida Lime Administrative Committee in accordance with the following, which appropriately identifies the grade of such limes:

(a) Registration of each label, brand, or trademark with the Florida Lime Administrative Committee shall be on forms prescribed by it and shall be filed with such committee not less than 30

days prior to use in lieu of the foregoing marking requirement.

(b) A label, brand, or trademark registered with the committee, during a fiscal year, to identify a specific grade may not be re-registered during the same fiscal year to identify any other grade.

(c) Each label, brand, or trademark registered with the committee shall include the name and address of the handler and shall be sufficiently distinctive otherwise that it can be readily identified and distinguished from other registered labels, brands, or trademarks.

(d) If a label, brand, or trademark is registered by a handler to identify a specific grade, in order for a label, brand, or trademark of practically the same design and lettering with a different color, or additional terms or name, to be registered to represent a different grade, the name of the color and the additional terms or name shall appear on the label, brand, or trademark in block letters of at least one-half (½) inch in height, of contrasting color.

(e) A label, brand, or trademark registered with the committee to identify a specific grade shall not be used on any container packed with limes of a lower grade than that for which the label, brand, or trademark is registered.

Dated: January 30, 1958.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-834; Filed, Feb. 3, 1958; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

QUALIFICATION OF ACCOUNTANTS

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed amendment to Regulation S-X, which governs the form, content and certification of financial statements filed pursuant to the various statutes administered by the Commission.

The proposed amendment relates to § 210.2-01 regarding the qualification of accountants. It would give effect to administrative practice which has been in process of development for some time. The proposed amendment eliminates the absolute prohibition of any indirect financial interest in the registrant or any of its parents or subsidiaries and any direct financial interest in other affiliates

of the registrant and substitutes the test of materiality therefor. The prohibition against any direct financial interest in any person or any of its parents or subsidiaries and certain other disqualifying connections have been retained and will be considered conclusive proof of lack of independence unless evidence to the contrary is produced which is convincing to the Commission.

The proposed revision also changes wording of the rule to indicate that in a specific case the Commission finds that an accountant is in fact not independent rather than that he is in fact independent.

The text of paragraphs (b) and (c) of § 210.2-01 which it is proposed to adopt pursuant to authority conferred upon the Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10 and 19 (a) thereof, the Securities Exchange Act of 1934, particularly sections 12, 13, 15 (d) and 23 (a) thereof, the Public Utility Holding Company Act of 1935, particularly section 20 thereof, and the Investment Company Act of 1940, particularly sections 8, 30, 31 (c) and 38 (a) thereof, is as follows:

(b) The Commission will not recognize any certified public accountant or public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any person or any of its parents or subsidiaries in whom he has, or had during the period of report, any direct financial interest or any material indirect financial interest; or with whom he is, or was during such period, connected as a promoter, underwriter, voting trustee, director, officer, or employee.

(c) In determining whether an accountant may in fact be not independent with respect to a particular registrant, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that registrant or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Commission.

All interested persons are hereby invited to submit views and comments on the proposed changes in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before February 28, 1958. Unless the person submitting comments or suggestions requests that his views not be made part of the Commission's public files, they will be made available for public inspection.

By the Commission.

ORVAL L. DuBOIS,
Secretary.

JANUARY 28, 1958.

[F. R. Doc. 58-809; Filed, Feb. 3, 1958; 8:47 a. m.]

NOTICES

POST OFFICE DEPARTMENT

POST OFFICE DEPARTMENT STAMP ADVISORY
COMMITTEE

APPOINTMENT OF MEMBERS

Correction

In Federal Register Document 58-736, published on page 663 in the issue for Friday, January 31, 1958, the citation for Order No. 56305 should read: "22 F. R. 1996".

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

NOTICE OF PROPOSED WITHDRAWAL AND
RESERVATION OF LANDS

JANUARY 27, 1958.

The Bureau of Reclamation of the Department of the Interior has filed an application, Serial Colorado 019088, for withdrawal of the lands described below from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388).

The applicant desires the land for reclamation purposes in connection with the Fruitland Mesa Project, Colorado.

For a period of thirty (30) days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 339 New Custom House, P. O. Box 1018, Denver 1, Colorado.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 50 N., R. 6 W.,

Sec. 3, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 4, lots 1 to 3 inclusive, and SW $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 5, W $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 6, lots 7, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 7, lots 1 to 4, inclusive, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;Sec. 17, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, andSE $\frac{1}{4}$;Sec. 18, E $\frac{1}{2}$ NW $\frac{1}{4}$;Sec. 19, SE $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 30, lots 2 and 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 50 N., R. 7 W.,

Sec. 2, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;Sec. 3, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$, andS $\frac{1}{2}$;Sec. 4, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$ andS $\frac{1}{2}$;Sec. 5, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$ andS $\frac{1}{2}$;Sec. 6, lots 1 to 7, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;Sec. 7, lots 1 to 3, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 8, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, andSE $\frac{1}{4}$;Sec. 9, N $\frac{1}{2}$, SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 10, N $\frac{1}{2}$;Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,SW $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;Sec. 12, S $\frac{1}{2}$ N $\frac{1}{2}$;Sec. 13, S $\frac{1}{2}$;Sec. 14, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, andSE $\frac{1}{4}$;Sec. 17, E $\frac{1}{2}$ NE $\frac{1}{4}$;Sec. 23, E $\frac{1}{2}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;

Secs. 24 and 25, all;

Sec. 26, E $\frac{1}{2}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 51 N., R. 7 W.,

Sec. 7, lots 2 and 3, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 8, lot 1 and S $\frac{1}{2}$ S $\frac{1}{2}$;Sec. 9, lots 1 and 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 14, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 16, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;Sec. 17, NE $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$;Sec. 29, S $\frac{1}{2}$ SW $\frac{1}{4}$;Sec. 30, lots 2, 3, and 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 31, lots 1 to 4, inclusive, E $\frac{1}{2}$ andE $\frac{1}{2}$ W $\frac{1}{2}$; (all);Sec. 32, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ and S $\frac{1}{2}$;Sec. 32, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ and S $\frac{1}{2}$;Sec. 33, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 34, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ S $\frac{1}{2}$.

T. 50 N., R. 8 W.,

Sec. 1, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$ andS $\frac{1}{2}$;Sec. 2, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$ andS $\frac{1}{2}$;Sec. 3, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$ andS $\frac{1}{2}$;Sec. 4, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$ andS $\frac{1}{2}$;

T. 51 N., R. 8 W.,

Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 23, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 24, S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 25, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;

Secs. 27 and 28, all;

Secs. 32 to 36, inclusive, all.

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 15 S., R. 92 W.,

Sec. 31, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 32, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;

T. 15 S., R. 93 W.,

Sec. 25, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,and NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 33, all;

Sec. 34, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, andSW $\frac{1}{4}$ SW $\frac{1}{4}$;Sec. 35, E $\frac{1}{2}$ NW $\frac{1}{4}$;Sec. 36, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

The above areas aggregate 23,886.70 acres.

J. ELLIOTT HALL,

Acting State Supervisor.

[F. R. Doc. 58-805; Filed, Feb. 3, 1958;
8:46 a. m.]

Office of the Secretary

[Order No. 2827]

COMMISSIONER OF FISH AND WILDLIFE

DELEGATION OF AUTHORITY FOR NEGOTIA-
TION OF CONTRACTS FOR PROFESSIONAL
SERVICES

SECTION 1. *Delegation.* The Commis-
sioner of Fish and Wildlife is authorized,

subject to the provisions of section 2 of this order, to exercise the authority delegated by the Administrator of General Services on December 11, 1957 (22 F. R. 10115) to the Secretary of the Interior, for the period ending December 1, 1958, to negotiate, without advertising, under section 302 (c) (4) of the Federal Property and Administrative Services Act of 1949, as amended (41 U. S. C. 252 et seq.) contracts for surveyors, appraisers, and architect-engineering services in connection with the administration of construction programs of the Fish and Wildlife Service.

Sec. 2. *Limitation; exercise of authority.* The authority granted by section 1 of this order

(a) Does not include authority to negotiate contracts with respect to any project located in the continental United States (exclusive of Alaska), the total estimated cost of which is more than \$200,000;

(b) Shall be exercised in accordance with all provisions of title III of the act with respect to negotiated contracts, all other provisions of law, and applicable regulations of the Department; and

(c) May not be redelegated.

FRED A. SEATON,

Secretary of the Interior.

JANUARY 29, 1958.

[F. R. Doc. 58-806; Filed, Feb. 3, 1958;
8:46 a. m.]

DEPARTMENT OF DEFENSE

Department of the Army

CLAUDE S. LAWSON

STATEMENT OF CHANGES IN FINANCIAL
INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of July 26, 1957, 22 F. R. 5936.

A. Deletions: None.

B. Additions: None.

This statement is made as of January 10, 1958.

Dated: January 22, 1958.

C. S. LAWSON.

[F. R. Doc. 58-814; Filed, Feb. 3, 1958;
8:47 a. m.]

KENNETH B. COATES

STATEMENT OF CHANGES IN FINANCIAL
INTERESTS

In accordance with the requirements of section 710 of the Defense Production Act of 1950, as amended, and Executive Order 10647, November 28, 1955, the following changes have taken place as of

January 1, 1958 in my financial interests as reported July 1, 1957, and published in the FEDERAL REGISTER of July 26, 1957, 22 F. R. 5935.

A. Deletions: Watson Industries, Incorporated, 7405 Lyndon Avenue, Detroit 38, Mich.; Secretary and Director, Stockholder.

Above company name changed to: Edgar Corporation (see below).

B. Additions: Edgar Corporation, 1341 Wanda Avenue, Ferndale 20, Mich.; Secretary and Director, Stockholder.

Dated: January 18, 1958.

KENNETH B. COATES.

[F. R. Doc. 58-815; Filed, Feb. 3, 1958; 8:47 a. m.]

BYRON C. HEACOCK

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of July 26, 1957, 22 F. R. 5936.

A. Deletions: None.

B. Additions: None.

This statement is made as of January 1, 1958.

Dated: January 20, 1958.

BYRON C. HEACOCK.

[F. R. Doc. 58-816; Filed, Feb. 3, 1958; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

MENA LIVESTOCK AUCTION ET AL.

PROPOSED POSTING OF STOCKYARDS

The Director of the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 202), and should be made subject to the provisions of the act.

Mena Livestock Auction, Mena, Ark.

Curtis Sale Barn, Curtis, Nebr.

Tahlequah Sale Barn, Tahlequah, Okla.

Jesse Young Livestock Commission, Corsicana, Tex.

Notice is hereby given, therefore, that the said Director, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., within 15

days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D. C., this 30th day of January 1958.

[SEAL]

DAVID M. PETTUS,

Director,

Livestock Division,
Agricultural Marketing Service.

[F. R. Doc. 58-839; Filed, Feb. 3, 1958; 8:51 a. m.]

SCOTT COUNTY LIVESTOCK AUCTION

DEPOSTING OF STOCKYARD

It has been ascertained that the Scott County Livestock Auction, Waldron, Arkansas, originally posted on November 6, 1957, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it no longer meets the area requirements. Accordingly, notice is given to the owner thereof and to the public that such livestock market is no longer subject to the provisions of the act.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which no longer is within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 30th day of January 1958.

[SEAL]

DAVID M. PETTUS,

Director,

Livestock Division,
Agricultural Marketing Service.

[F. R. Doc. 58-840; Filed, Feb. 3, 1958; 8:52 a. m.]

Office of the Secretary

NORTH CAROLINA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in the following counties in the State of North Carolina a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH CAROLINA

Bertie.
Edgecombe.
Hertford.

Martin.
Nash.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 30th day of January 1958.

TRUE D. MORSE,

Acting Secretary.

[F. R. Doc. 58-841; Filed, Feb. 3, 1958; 8:52 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-90]

AEROJET-GENERAL-NUCLEONICS

NOTICE OF PROPOSED ISSUANCE OF CONSTRUCTION PERMIT AND FACILITY LICENSES

Please take notice that the Atomic Energy Commission proposes to issue a construction permit to Aerojet-General Nucleonics, substantially in the form set forth in Annex "A" below unless on or before fifteen (15) days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by the Commission's Rules of Practice (10 CFR Part 2). There is annexed as Annex "B" a memorandum submitted by the Division of Licensing and Regulation which summarizes the principal factors considered in reviewing the application for license. For further details see the application for license at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Notice is also hereby given that if the Commission issues the construction permit, the Commission may without further prior public notice convert the construction permit to Class 104 licenses authorizing operation of the reactors by Aerojet-General Nucleonics and the transfer of possession or title or both to the reactors to any person licensed to acquire the same, if it is found that the reactors have been constructed in accordance with the specifications contained in the application, and in conformity with the provisions of the act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission that the granting of such licenses would not be in accordance with the provisions of the act.

Dated at Germantown, Md., this 28th day of January 1958.

For the Atomic Energy Commission.

H. L. PRICE,

Director,

Division of Licensing and Regulation.

ANNEX "A"

PROPOSED CONSTRUCTION PERMIT

Aerojet-General Nucleonics, San Ramon, California (hereinafter "AGN") on December 2, 1957, filed its application for Class 104 licenses, defined in § 50.21 of Part 50,

"Licensing of Production and Utilization Facilities," Title 10, Chapter I, CFR, to construct and operate fifteen 100-milliwatt nuclear reactors of a type designated by AGN as Model AGN-201, and referred to as Serial Nos. 126 through 140. The fifteen reactors will be described herein as "the reactors".

The Atomic Energy Commission (hereinafter "the Commission") finds that:

A. The reactors will be utilization facilities as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities."

B. The reactors will be useful in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954, as amended (hereinafter "the Act").

C. AGN is financially qualified to construct and operate the reactors in accordance with the regulations contained in Title 10, Chapter I, CFR.

D. AGN is technically qualified to design and construct the reactors.

E. AGN has submitted sufficient information to provide reasonable assurance that the reactors can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

F. The issuance of a construction permit to AGN will not be inimical to the common defense and security or to the health and safety of the public.

Pursuant to the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to AGN to construct the reactors as utilization facilities. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

A. The earliest and latest completion dates of each reactor shall be as set forth below. The term "completion date" as used herein means the date on which construction of the reactor is completed except for the introduction of the fuel material.

AGN Serial No.	Earliest completion date	Latest completion date
126	Feb. 19, 1958	Sept. 1, 1958
127	Feb. 20, 1958	Sept. 10, 1958
128	do	Sept. 20, 1958
129	Mar. 1, 1958	Oct. 1, 1958
130	Mar. 10, 1958	Oct. 10, 1958
131	Mar. 20, 1958	Oct. 20, 1958
132	Apr. 1, 1958	Nov. 1, 1958
133	Apr. 10, 1958	Nov. 10, 1958
134	Apr. 20, 1958	Nov. 20, 1958
135	May 1, 1958	Dec. 1, 1958
136	May 10, 1958	Dec. 10, 1958
137	May 20, 1958	Dec. 20, 1958
138	June 1, 1958	Jan. 1, 1959
139	June 10, 1958	Jan. 10, 1959
140	June 20, 1958	Jan. 20, 1959

B. The site proposed for the location of the reactors is the location in San Ramon, Contra Costa County, California specified in the application.

C. The reactors are self-contained research reactors using uranium enriched in the isotope uranium 235 as fuel and designed to operate at a power level of 100 milliwatts (thermal).

Upon completion (as provided by Paragraph "A" above) of the construction of each reactor in accordance with the terms and conditions of this permit, and upon finding that the reactor authorized has been constructed in conformity with the application and in conformity with the provisions of the

Act and of the rules and regulations of the Commission, the Commission will issue a Class 104 license to AGN pursuant to section 104c, of the Act, which license shall expire 20 years after the date of this construction permit.

Date of issuance:

For the Atomic Energy Commission.

Director,
Division of Licensing and Regulation.

ANNEX "B"

MEMORANDUM

Aerojet-General Nucleonics of San Ramon, California, proposes to construct 15 nuclear reactors of the type designated by AGN as Model AGN-201. The individual reactors are referred to by AGN as serial numbers 126 through 140. Each will be a self-contained reactor using uranium enriched in the isotope uranium-235 as fuel and designed to operate at a maximum power level of 100 milliwatts (thermal).

A complete description and hazards analysis of the reactor are contained in license applications and amendments submitted by AGN in Dockets F-15, F-32, F-44, and 50-53. A summary of the Model AGN-201 reactor description and discussion of the hazards analysis by the Commission's staff are set forth in a memorandum accompanying the notice of proposed issuance of construction permit in Docket F-32 published in the FEDERAL REGISTER on February 6, 1957, 22 F. R. 742.

Subsequent to the licensing of the individual reactors, AGN proposes to transfer the reactors to purchasers and, accordingly, has requested authorization to transfer the reactors without further license application on its part. A description of the method of transfer proposed to be used is contained in AGN's application for license in Docket 50-53. This method does not differ materially from that employed by AGN in transferring the reactor subject to License R-7 from San Ramon, California, to Philadelphia, Pennsylvania. That transfer is discussed in the memorandum accompanying the notice of proposed issuance of an amendment to the license published in the FEDERAL REGISTER on February 8, 1957, 22 F. R. 798.

Technical qualifications. AGN's technical qualifications were discussed in the aforementioned memorandum published in 22 F. R. 742. Since then AGN has expanded its staff in both members and educational background and has successfully completed the fabrication and operation of nine 100-milliwatt Model AGN-201 reactors and two 5-watt AGN-201M reactors.

Financial qualifications. AGN is a subsidiary of Aerojet-General Corporation (AGC), which in turn is a subsidiary of the General Tire & Rubber Company. AGC has assumed financial responsibility for the production of the fifteen AGN-201 reactors, serial numbers 126 through 140. On the basis of the evidence in these proceedings, including the assumption of financial responsibility by AGC, we conclude that AGN is financially qualified to carry out the proposed activities in accordance with the requirements of the Commission's regulations.

Financial protection. Aerojet-General Nucleonics has filed with the Commission, as proof of financial protection, pursuant to 10 CFR 140, copies of binder number 27 issued by Nuclear Energy Liability Insurance Association covering Aerojet-General Nucleonics' nuclear facilities located at San Ramon, California, including the reactors described in the application.

Conclusions. Based on the above considerations, it is concluded that:

a. There is reasonable assurance that the reactors proposed can be constructed and operated at the proposed site without undue risk to the health and safety of the public.

b. The applicant is technically and financially qualified to engage in the proposed activities.

Dated: January 28, 1958.

For the Division of Licensing and Regulation.

H. L. PRICE,
Director.

[F. R. Doc. 58-801; Filed, Feb. 3, 1958; 8:45 a. m.]

[Docket No. 50-13]

BABCOCK & WILCOX CO.

NOTICE OF ISSUANCE OF UTILIZATION FACILITY LICENSE AMENDMENT

Please take notice that the Atomic Energy Commission has issued the following amendment (No. 1) to License CX-1 authorizing The Babcock & Wilcox Company to conduct a second series of experiments for the Consolidated Edison Thorium Reactor in the Company's Critical Experiment Laboratory near Lynchburg, Virginia, at thermal levels up to 1,000 watts. The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the operation of the facility for the second set of critical experiments with pure water moderator only does not present any substantial changes in the hazards to the health and safety of the public from those presented by the operation of the first series of experiments approved in the original license.

The principal change in the experiments from that originally licensed is the change in the composition and configuration of the fuel elements. The proposed thorium-uranium core has inherent negative temperature and void coefficients and an inherent shutdown mechanism capable of counteracting any credible accidental excursion. In these respects it is no different from the core previously reviewed. Furthermore, the same instrumentation, safety devices and ancillary equipment which were previously reviewed for use for the first series of experiments will be used in the second series of experiments and will provide adequate protection against accident. The use of thorium as a fuel constituent will not result in significant change in hazards in this critical experiment application.

In accordance with the Commission's rules of practice (10 CFR Part 2), the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefore from the licensee or an intervenor within 30 days after the filing of this notice with the Federal Register Division. Further details, including a hazards analysis by the AEC Staff in this matter, may be obtained by examination of Docket 50-13 on file in the AEC Public Document Room, located at 1717 H Street NW., Washington, D. C.

Dated at Germantown, Md., this 24th day of January 1958.

For the Atomic Energy Commission.

H. L. PRICE,
Director,

Division of Licensing and Regulation.

[License No. CX-1 Amendment No. 1]

[Docket No. 50-13]

BABCOCK & WILCOX Co.

AMENDMENT OF UTILIZATION FACILITY LICENSE

On December 9, 1957, The Babcock & Wilcox Company filed an application for amendment to its existing License No. CX-1 which would authorize the Company to conduct a new set of experiments in the Company's Critical Experiment Laboratory near Lynchburg, Virginia. The application states that normal operating power level for the experiments will be less than 100 watts with a few occasions when power will be increased to 1000 watts for short periods of time. An amendment providing additional information pertaining to the application for amendment of License No. CX-1 was filed by The Babcock & Wilcox Company on January 2, 1958.

Paragraph (2) of License No. CX-1 issued to The Babcock & Wilcox Company on March 20, 1957, reading as follows:

This license applies to the facility which is owned by B&W and located in Lynchburg, Virginia, and described in B&W's application filed October 27, 1955, and amendments thereto filed on February 23, 1956, and August 20, 1956. The original application together with said amendment is hereinafter referred to as "the application".

is hereby amended to read as follows:

This license applies to the facility which is owned by B&W and located in Lynchburg, Virginia, and described in B&W's application filed on October 27, 1956 and amendments thereto filed on February 23, 1956, August 20, 1956, December 9, 1957, and January 2, 1958. The original application together with said amendments is hereinafter referred to as "the application."

The Atomic Energy Commission has found that operation of the facility in accordance with the terms and conditions of the license as amended will not be inimical to the common defense and security or to the health and safety of the public.

Date of issuance: January 24, 1958.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Licensing and Regulation.

[F. R. Doc. 58-802; Filed, Feb. 3, 1958; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

CHARLES K. BASSETT

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of August 15, 1957, 22 F. R. 6577.

A. Deletions: None.

B. Additions: City & County of Honolulu, T. H.

This statement is made as of January 22, 1958.

Dated: January 22, 1958.

CHARLES K. BASSETT.

[F. R. Doc. 58-817; Filed, Feb. 3, 1958; 8:48 a. m.]

JOHN S. VANDER HEIDE

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of February 20, 1957, 22 F. R. 1045; August 7, 1957, 22 F. R. 6303.

A. Deletions: No change.

B. Additions: No change.

This statement is made as of January 23, 1958.

Dated: January 23, 1958.

JOHN S. VANDER HEIDE.

[F. R. Doc. 58-818; Filed, Feb. 3, 1958; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-9927]

UNITED GAS PIPE LINE Co.

NOTICE OF APPLICATION AND DATE OF HEARING

JANUARY 29, 1958.

Take notice that United Gas Pipe Line Company (Applicant), a Delaware corporation, with its principal place of business in Shreveport, Louisiana, filed on January 26, 1956, an application for a certificate of public convenience and necessity to construct and operate 9.4 miles of 4-inch pipeline and appurtenant facilities in order to sell natural gas to the City of Newton, Newton County, Texas, for resale to the residents therein, pursuant to a contract dated July 3, 1957¹ all as more fully described in the application which is on file with the Commission and open to public inspection.

The proposed facilities will be constructed by Applicant and will extend from near mile post No. 60.3 on Applicant's existing Port Neches-Magasco, Texas, 16-inch line in a southeasterly direction to a meter station at the City of Newton.²

Applicant will supply and deliver natural gas to the City of Newton through the facilities proposed herein from its existing sources.

Applicant proposes to finance the estimated cost of these facilities, \$124,000, from its working funds.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and sub-

¹ The maximum daily contract volume of natural gas under the contract referred to is 2,000 Mcf.

² Temporary authorization was granted on July 8, 1957.

ject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 27, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 11, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-808; Filed, Feb. 3, 1958; 8:46 a. m.]

OFFICE OF DEFENSE MOBILIZATION

OTTO L. NELSON, JR.

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Additions:

Revenue bonds:

Rancocas Valley Regional High School District, Burlington County, N. J.
Board of Education of the Township of Lawrence, Mercer County, N. J.

Deletions: Revenue bonds:

City of Little Rock, Arkansas Water Revenue Bonds.

This amends statement previously published in the FEDERAL REGISTER August 17, 1957 (22 F. R. 6640).

Dated: January 10, 1958.

OTTO L. NELSON, JR.,
Major Gen. U. S. A. (Ret.).

[F. R. Doc. 58-825; Filed, Feb. 3, 1958; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12167; FCC 58M-86]

CAPITOL BROADCASTING Co. (WJTV)

ORDER CONTINUING HEARING

In re modification of construction permit of Capitol Broadcasting Company (WJTV), Jackson, Mississippi, Docket No. 12167; pursuant to section 316 of

the Communications Act of 1934, as amended.

The Hearing Examiner having under consideration an oral request made this date by counsel for the Broadcast Bureau to postpone the hearing in the above-entitled matter, presently scheduled for February 4, 1958, to February 18, 1958; and

It appearing, that the request is based upon the present unavailability of certain engineering data necessary to preparation of the Broadcast Bureau's case; and

It further appearing, that counsel for all parties have agreed to the postponement,

It is ordered, This 28th day of January 1958, that the hearing scheduled for February 4, 1958, is rescheduled to commence at 10:00 a. m., February 18, 1958, in the Commission's offices at Washington, D. C.

Released: January 29, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-827; Filed, Feb. 3, 1958;
8:49 a. m.]

[Docket No. 12184; FCC 58M-88]

HARRIS Co.

ORDER CONTINUING HEARING

In re application of The Harris Company, Portland, Maine, Docket No. 12184, File No. 2223-C2-R-57; for the renewal of the license for the station KCB892, a two-way communication facility in the Domestic Public Land Mobile Radio Service.

At the oral request of counsel for the applicant and with the concurrence of counsel for the Common Carrier Bureau,

It is ordered, This 29th day of January 1958, that the hearing in the above-entitled matter, presently scheduled for January 31, 1958, is hereby rescheduled to commence at 10:00 a. m., February 26, 1958, in the Commission's offices at Washington, D. C.

Released: January 29, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-828; Filed, Feb. 3, 1958;
8:49 a. m.]

[Docket No. 12250; FCC 58M-89]

SACRAMENTO TELECASTERS, INC.
(KBET-TV)

ORDER SCHEDULING HEARING

In re application of Sacramento Telecasters, Inc. (KBET-TV), Sacramento, California, Docket No. 12250, File No. BMPCT-2633; for modification of construction permit (Channel 10).

It is ordered, This 29th day of January 1958, that the hearing now under indefinite continuance is scheduled for Monday, February 24, 1958, at 10 a. m., in

the offices of the Commission, Washington, D. C.

Released: January 29, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-829; Filed, Feb. 3, 1958;
8:49 a. m.]

[Docket No. 12286]

MARVIN H. SMITH

ORDER DESIGNATING MATTER FOR HEARING
ON SPECIFIED ISSUES

In the matter of Marvin H. Smith, Hermosa Beach, California, Docket No. 12286; suspension of amateur radio operator license.

The Commission having under consideration the application of Marvin H. Smith, 117 Prospect Avenue, Hermosa Beach, California, for a hearing in the above-entitled matter;

It appearing that the said Marvin H. Smith, acting in accordance with the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, filed with the Commission within the time provided therefor, an application requesting a hearing on the Commission's order of October 15, 1957, suspending his Advanced Class Amateur Radio Operator License for a period of one month; and
It further appearing that under the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, said licensee is entitled to a hearing in the matter, and that upon the filing of a timely written application therefor, the Commission's suspension order is held in abeyance until the conclusion of proceedings in the said hearing;

It is ordered, This 28th day of January 1958, under authority contained in sec-

tion 303 (m) (2) of the Communications Act of 1934, as amended, and section 0.292 (f) of the Commission's rules, that the matter of the suspension of the Advanced Class Amateur Radio Operator License of Marvin H. Smith, be designated for hearing before a Commission Examiner at a time and place later to be specified, upon the following issues:

1. To determine whether the licensee committed the violations of the Commission's rules as set forth in the Commission's order of suspension.

2. If the licensee committed such violations, to determine whether the facts or circumstances in connection therewith would warrant any change in the Commission's order of suspension.

It is further ordered, That a copy of this order be transmitted by certified mail—return receipt requested to Mr. Marvin H. Smith, 117 Prospect Avenue, Hermosa Beach, California.

Released: January 29, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-830; Filed, Feb. 3, 1958;
8:50 a. m.]

[Cuban Change List No. 5]

CUBAN BROADCAST STATIONS

NOTIFICATION OF NEW STATIONS, AND
CHANGES, MODIFICATION AND DELETION OF
EXISTING STATIONS

DECEMBER 17, 1957.

Notification of new Cuban Radio Stations, and of changes, modification and deletions of existing stations, in accordance with Part III, section F of the North American Regional Broadcasting Agreement, Washington, D. C., 1950.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
CMDT	Bayamo, Oriente (assignment of call letters and change in location from Manzanillo).	880 kilocycles 0.25		U	II	
CMDY	Holguin, Oriente	870 kilocycles 0.25		U	II	Dec. 20, 1957
CMKS	Guantanamo, Oriente (change in frequency from 1200 kc.).	1070 kilocycles 0.25		U	II	Jan. 17, 1958
CMHE	Fomento, Las Villas (change in location from Enrucijada).	1080 kilocycles 0.25		U	II	
CMKS	Guantanamo, Oriente (delete assignment—vide 1070 kc.).	1290 kilocycles 0.25		U	II	
CMDG	Guantanamo, Oriente	1800 kilocycles 0.25		U	IV	June 17, 1958
CMAE	Pinar del Rio, Pinar del Rio	1550 kilocycles 0.25		U	IV	Feb. 15, 1958
CMDV	Santiago de Cuba, Oriente (assignment of call letters—now in operation).	0.25		U	II	

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-831; Filed, Feb. 3, 1958; 8:50 a. m.]

[Mexican List No. 207]

MEXICAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES, AND CORRECTIONS IN ASSIGNMENTS

DECEMBER 20, 1957.

Notification under the provisions of Part III, Section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Mexican Broadcast Stations modifying the appendix containing assignment of Mexican Broadcast Stations (Mimeograph 47214-6) attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class	Probable date of change or commencement of operation
XECO----	Tecate, Baja California (change in call letters previously XEAK).	560 kilocycles 250 w-----	ND	U	IV	Dec. 20, 1957
XEHO----	Oludad Obregon, Sonora (previously on 1260 kc.).	910 kilocycles 1 kw D/250N-----	ND	U	IV	June 20, 1958
XEQQ----	Cullacan, Sinaloa (previously on 1300 kc.).	920 kilocycles 5000 w D/100 w N.	ND	U	III	Do.
XEHO----	Oludad Obregon, Sonora (delete upon entry into operation on 910 kc.).	1260 kilocycles 1 kw D/250 w N.	ND	U	IV	
XEAP----	Oludad Obregon, Sonora (increase in daytime power).	1290 kilocycles 1 kw D/100 w N.	ND	U	IV	Mar. 20, 1958
XEQQ----	Cullacan, Sinaloa (delete upon entry into operation on 920 kc.).	1500 kilocycles 1000 w D/500 w N.	ND	U	III-B	
XEXW----	Nogales, Sonora (increase in daytime power).	5000 w D/100 w N.	ND	U	III	Do.
XERJ----	Mazatlan, Sinaloa (increase in daytime power).	1520 kilocycles 5000 w D/500 w N.	ND	U	III	Do.
XENG----	Huachinango, Puebla (new)-----	1400 kilocycles 250 w-----	ND	U	IV	June 20, 1958
XENA----	Queretaro, Queretaro (increase in nighttime power).	1450 kilocycles 1000 w D/500 w N.	ND	U	IV	Mar. 20, 1958
XESG----	Saltillo, Coahuila (new)-----	1510 kilocycles 1000 w D-----		D	II	June 20, 1958

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS
Secretary.

[F. R. Doc. 58-832; Filed, Feb. 3, 1958; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2115]

BELLANCA CORP.

ORDER SUMMARILY SUSPENDING TRADING

JANUARY 29, 1958.

In the matter of trading on the American Stock Exchange in the \$1.00 par value Capital Stock of Bellanca Corporation, File No. 1-2115.

I. The \$1.00 par value Capital Stock of Bellanca Corporation is listed and registered on the American Stock Exchange, a national securities exchange; and

II. The Commission on April 24, 1957, issued its order and notice of hearing under section 19 (a) (2) of the Securities Exchange Act of 1934 (hereinafter called "the act") to determine at a hearing beginning July 10, 1957, whether it is necessary or appropriate for the protection of investors to suspend for a

period not exceeding twelve months, or to withdraw, the registration of the capital stock of Bellanca Corporation (hereinafter called "registrant") on the American Stock Exchange for failure to comply with section 13 of the act and the rules and regulations adopted thereunder, and for failure to comply with the disclosure requirements of Regulation X-14 adopted pursuant to section 14 (a) of the act.

On January 17, 1958 the Commission issued its order summarily suspending trading of said securities on the exchange pursuant to section 19 (a) (4) of the act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending January 29, 1958.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the American Stock Exchange and that such action is neces-

sary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive, or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices for a period of ten (10) days, January 30, 1958 to February 8, 1958, inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 58-810; Filed, Feb. 3, 1958; 8:47 a. m.]

TARIFF COMMISSION

EXTRA-LONG-STAPLE COTTON

SUPPLEMENTAL INVESTIGATION INSTITUTED AND HEARING SET

The United States Tariff Commission, on the 29th day of January 1958, instituted an investigation for the purposes of section 22 (d) of the Agricultural Adjustment Act, as amended, supplemental to its Investigation No. 1 under section 22, with respect to cotton having a staple of 1 3/8 inches or more in length.

Annual absolute quotas on imports of cotton having a staple of 1 3/8 inches or more in length were originally made effective on September 20, 1939 by Presidential proclamation of September 5, 1939. At the present time, imports of this cotton are restricted by an annual global quota of 45,656,420 pounds; the quota year begins on August 1 of each year. The Commission is informed that the quota for the current year ending July 31, 1958, has been filled. It is further informed that because of unusual circumstances a substantial part of the quota for this year was filled by cotton of a staple length which normally has not entered under this quota, with resultant hardship to importers normally entering cotton of a greater staple length and threatening domestic users of foreign extra-long-staple cotton with a short supply. The purpose of this supplemental investigation is to determine whether the admission of an additional quantity of cotton having a staple 1 3/8 inches or more in length during the current quota year (ending July 31, 1958), may be permitted without materially interfering with the cotton programs of the United States Department of Agriculture.

Hearing. All parties interested will be given opportunity to be present, to

produce evidence, and to be heard at a public hearing to be held in connection with this supplemental investigation in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, D. C., beginning at 10 a. m., e. s. t., on April 8, 1958.

Issued: January 30, 1958.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F. R. Doc. 58-822; Filed, Feb. 3, 1958;
8:48 a. m.]

[Investigation No. 2]

HATTERS' FUR

INVESTIGATION INSTITUTED AND HEARING SET

Investigation instituted. Notice is hereby given that on January 24, 1958, the United States Tariff Commission, on its own motion, instituted an investigation for the purposes of paragraph 2 of Executive Order 10401 (3 CFR, 1952 Supp., p. 105) to determine whether, and, if so, to what extent, the modification, by Presidential Proclamation No. 2960, dated February 5, 1952 (3 CFR, 1952, p. 18), of the concession on hatters' fur granted in the General Agreement on Tariffs and Trade remains necessary in order to prevent or remedy serious injury or the threat thereof to the domestic industry producing like or directly competitive products.

Hatters' fur is provided for in paragraph 1520 of the Tariff Act of 1930, where under which it was originally dutiable at 35 percent ad valorem. Pursuant to a concession granted in the General Agreement on Tariffs and Trade, a reduced rate of 15 percent ad valorem was made effective January 1, 1948. As a result of an "escape clause" investigation by the Tariff Commission pursuant to section 7 of the Trade Agreements Extension Act of 1951, the President, by the proclamation above mentioned, modified the concession and changed the rate of duty on hatters' fur, effective

February 9, 1952, to 47½ cents per pound, but not less than 15 percent nor more than 35 percent ad valorem.

Under section 7 of the Trade Agreements Extension Act of 1951 and the "escape clause" of the General Agreement on Tariffs and Trade, the modification of a trade-agreement concession under the escape-clause procedure is required to be only "to the extent and for the time necessary to prevent or remedy" the serious injury. Executive Order 10401 prescribes procedures for implementing this requirement by periodic review of "escape clause" modifications of trade-agreement concessions. Paragraph 1 of the Order provides that the Tariff Commission shall report to the President annually on developments with regard to the product on which an "escape" action has been taken. Four such reports to the President with regard to hatters' fur have been made, and a fifth report was scheduled for February 4, 1958. However, after review of the developments since the last report (February 4, 1957), the Commission concluded that a formal investigation under paragraph 2 of the Order is warranted. Paragraph 2 requires a formal investigation whenever, in the judgment of the Commission, conditions of competition with respect to the trade in a product on which "escape" action has been taken have so changed as to warrant a formal investigation.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a. m., e. s. t., on February 25, 1958, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C. Interested parties desiring to appear and be heard at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Issued: January 30, 1958.

By order of the Commission.

DONN N. BENT,
Secretary.

[F. R. Doc. 58-823; Filed, Feb. 3, 1958;
8:48 a. m.]

[Investigation No. 67]

WILTON AND VELVET CARPETS AND RUGS INVESTIGATION INSTITUTED AND HEARING SET

Investigation instituted. Upon application of the Carpet Institute, Inc., New York, N. Y., received January 22, 1958, the United States Tariff Commission, on the 29th day of January 1958, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted an investigation to determine whether Wilton and velvet carpets, rugs, and mats, and carpets, rugs, and mats of like character or description, classifiable under paragraph 1117 (a) of the Tariff Act of 1930, are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in this investigation will be held beginning at 10 a. m., e. d. s. t., on June 10, 1958, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D. C., and at the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: January 30, 1958.

By order of the Commission.

DONN N. BENT,
Secretary.

[F. R. Doc. 58-824; Filed, Feb. 3, 1958;
8:49 a. m.]